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STATE OF RHODE ISLAND
SUPREME COURT

JOAO NEVES	**:**
	:
v.	**: SU-2022-0092-MP**
	: (PM-2022-00259)
STATE OF RHODE ISLAND	**:**
KEITH NUNES	**:**
	:
v.	**: SU-2022-0093-MP**
	: (PM-2022-00901)
STATE OF RHODE ISLAND	**:**
PABLO ORTEGA	**:**
	:
v.	**: SU-2022-0094-MP**
	: (PM-2022-00260)
STATE OF RHODE ISLAND	**:**
MARIO MONTEIRO	**:**
	:
v.	**: SU-2023-0167-MP**
	: (PM-2023-00921)
STATE OF RHODE ISLAND	**:**

CONSOLIDATED APPEALS FROM SUPERIOR COURT JUDGMENTS GRANTING APPLICATIONS FOR POST-CONVICTION RELIEF

BRIEF FOR *AMICUS CURIAE* RHODE ISLAND DEPARTMENT OF CORRECTIONS

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I. STATEMENT OF INTEREST OF AMICUS CURIAE

The Director of Corrections is required to submit to the parole board a list of all persons eligible for parole. R.I. Gen. Laws § 13-8-23. In furtherance of this requirement, the Department employes a Parole Coordinator who is responsible for calculating the parole eligibility dates of all prisoners who are sentenced to more than six months imprisonment and who are not sentenced to life without the possibility of parole. The Parole Coordinator utilizes these calculations to compile a list of prisoners who are eligible for parole in any given month.

The Department seeks to offer information and insight into its methodology for the calculation of parole eligibility for prisoners, as directed by the Court in its Order dated November 23, 2023. In arriving at an initial parole eligibility date, the Department has continuously worked to harmonize and give credit to the laws that govern parole eligibility. Thus, the Department has profound interest in this Court's rulings on the issues of first impression presented in these consolidated appeals.

II. ARGUMENT

A. The Legislative History of R.I. Gen. Laws § 13-8-13

Parole eligibility is governed by R.I. Gen Laws § 13-8-1, *et seq*. The interpretation and application of R.I. Gen. Laws § 13-8-13 is the core issue before this Court in the post-conviction relief applications of Petitioners Neves, Nunes,

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Ortega and Monteiro. Although Petitioners seek to strictly confine the application of § 13-8-13 to the individual facts of their cases, the statutory interpretation will have far reaching effect. Originally enacted in 1915, § 13-8-13, has been amended fourteen times before arriving at the controlling version of the statute, as amended in 2021. The Department provides a brief legislative review of § 13-8-13 as it has evolved over the forty (40) years before the 2021 amendment.

In 1981, § 13-8-13 was increased from one to two succinct paragraphs, adding subsection (B), providing clear direction on the calculation for parole eligibility for prisoners serving life or lengthy sentences. It provided:

> A. In case of a prisoner sentenced to imprisonment for life, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment provided, however in case of a prisoner serving a sentence or sentences of a length making him ineligible for permit in less than ten (10) years pursuant to 13-8-9[1] and 13-8-10[2], such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment, and provided further that the aforesaid permit shall be issued only by a unanimous vote of all the attending members of the board, providing that not less than four members are present, and whenever after the issue of such permit such prisoner shall be pardoned, then the control of the board over such prisoner shall cease and determine; provided however, that in case of a prisoner sentenced to imprisonment or life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions such permit may be issued only after such prisoner has served not less than twenty-five (25) years imprisonment; and provided, further, that for each subsequent conviction of such escape

[1] Section 13-8-9 is entitled "Issuance of Parole."

[2] Section 13-8-10 is entitled "Prisoners subject to more than one sentence."

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or attempted escape, an additional five (5) years shall be added to the time so required to be served.

B. In case of a prisoner sentenced consecutively to more than one life term, for crimes occurring after the effective date of this statute, such permit may be issued only after such prisoner has served not less than ten (10) years consecutively on each life sentence; provided however, that nothing contained in this subsection shall be construed as permitting the issuance of a permit when a prisoner who has been sentenced consecutively to more than one life term for crimes occurring before the effective date of this act has served not less than ten (10) years on each life sentence.

Exhibit 1. (amendments underlined). This act took effect upon passage.

The General Assembly revisited § 13-8-13 in 1989, amending it to speak to parole eligibility for prisoners serving life sentences for first- or second-degree murder. Subsection (a) was amended to provide that:

(a) In case of a prisoner sentenced to imprisonment for life, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment provided, however in case of a prisoner serving a sentence or sentences of a length making him ineligible for permit in less than ten (10 years pursuant to 13-8-9 and 13-8-10, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment, provided, however, that in the case of a prisoner sentenced to imprisonment for life for a first or second degree murder committed after the effective date of this act, such permit may be issued only after such prisoner has served not less than fifteen (15) years imprisonment, and provided further that the aforesaid permit shall be issued only by a unanimous vote of all the attending members of the board, providing that not less than four members are present, and whenever after the issue of such permit such prisoner shall be pardoned, then the control of the board over such prisoner shall cease and determine; provided however, that in case of a prisoner sentenced to imprisonment or life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions such permit may be issued only after

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> such prisoner has served not less than twenty-five (25) years imprisonment; and provided, further, that for each subsequent conviction of such escape or attempted escape, an additional five (5) years shall be added to the time so required to be served.

Exhibit 2. (amendments underlined). As in 1981, the 1989 amendment to § 13-8-13 was prospective.

In 1995, the General Assembly amended both subsections (a) and (b) to increase the time a prisoner must serve on life sentence for first- or second-degree murder before they could be eligible to be considered for parole. The 1995 amendment to § 13-8-13 provided:

> (a) In case of a prisoner sentenced to imprisonment for life, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment provided, however in case of a prisoner serving a sentence or sentences of a length making him ineligible for permit in less than ten (10 years pursuant to 13-8-9 and 13-8-10, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment, provided, however, that in the case of a prisoner sentenced to imprisonment for life for a first or second degree murder committed after July 10, 1989, provided further, however, in the case of a prisoner sentenced to imprisonment or life for first or second degree murder committed after the date of the passage of this act, such permit may be issued only after such prisoner has served not less than twenty (20) years imprisonment, such permit may be issued only after such prisoner has served not less than fifteen (15) years imprisonment, and provided further that the aforesaid permit shall be issued only by a unanimous vote of all the attending members of the board, providing that not less than four members are present, and whenever after the issue of such permit such prisoner shall be pardoned, then the control of the board over such prisoner shall cease and determine; provided however, that in case of a prisoner sentenced to imprisonment or life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions such permit may be issued only after such

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prisoner has served not less than twenty-five (25) years imprisonment; and provided, further, that for each subsequent conviction of such escape or attempted escape, an additional five (5) years shall be added to the time so required to be served.

(b) In case of a prisoner sentenced consecutively to more than one life term, for crimes occurring after the effective date of this statute, such permit may be issued only after such prisoner has served not less than ten (10) years consecutively on each life sentence; ~~provided however, that nothing contained in this subsection shall be construed as permitting the issuance of a permit when a prisoner who has been sentenced consecutively to more than one life term for crimes occurring before the effective date of this act has served not less than ten (10 years on each life sentence.~~ Provided, however in the case of a prisoner sentenced consecutively to more than one (1) life term, for crimes occurring after the date of passage of this act, the permit may be issued only after the prisoner has served not less than fifteen (15) years consecutively on each life sentence.

Exhibit 3. (amendments underlined). As with the prior two amendments, the General Assembly enacted the modifications to the statute prospectively.

In 2015, the General Assembly redesigned the format of § 13-8-13, made grammatical changes, and more importantly, substantively addressed the initial parole eligibility date for inmates serving life sentences for first- or second-degree murder. As of 2015, § 13-8-13 read:

(a) In the case of a prisoner sentenced to imprisonment for life, a parole permit may be issued at any time after the prisoner has served not less than ten (10) years' imprisonment; provided that:

(1) In the case of a prisoner serving a sentence or sentences of a length making him or her ineligible for a permit in less than ten (10) years, pursuant to *§§ 13-8-9* and *13-8-10*, the permit may be issued at any time after the prisoner has served not less than ten (10) years' imprisonment;

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(2) In the case of a prisoner sentenced to imprisonment for life for a first- or second-degree murder committed after July 10, 1989, the permit may be issued only after the prisoner has served not less than fifteen (15) years' imprisonment;

(3) In the case of a prisoner sentenced to imprisonment for life for a first- or second-degree murder committed after June 30, 1995, the permit may be issued only after the prisoner has served not less than twenty (20) years' imprisonment;

(4) In the case of a prisoner sentenced to imprisonment for life for a first- or second-degree murder committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty-five (25) years' imprisonment; and

(5) In the case of a prisoner sentenced to imprisonment for life for a crime, other than first- or second-degree murder, committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years' imprisonment.

(b) The permit shall be issued only by a unanimous vote of all the attending members of the board; provided that not less than four (4) members are present, and whenever, after the issue of the permit, the prisoner shall be pardoned, then the control of the board over the prisoner shall cease and terminate.

(c) (1) In the case of a prisoner sentenced to imprisonment for life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than twenty-five (25) years' imprisonment; provided, however, that as to a prisoner who has been sentenced to imprisonment for life for a conviction of first- or second-degree murder, committed after July 1, 2015, and who is convicted thereafter of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than thirty-five (35) years' imprisonment; and

(2) For each subsequent conviction of escape or attempted escape, an additional five (5) years shall be added to the time required to be served.

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> (d) In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after May 7, 1981, the permit may be issued only after the prisoner has served not less than ten (10) years consecutively on each life sentence; provided, in the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after June 30, 1995, the permit may be issued only after the prisoner has served not less than fifteen (15) years consecutively on each life sentence. <u>In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years consecutively on each life sentence. In the case of a prisoner sentenced consecutively to more than one life term for crimes, including first- or second-degree murder, occurring after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty-five (25) years consecutively on each life sentence.</u>

Exhibit 4. (substantive amendments underlined). As with the 1981, 1989 and 1995 amendments, the General Assembly's amendments to § 13-8-13 were prospective in their application.

The 2021 amendment was limited to the inclusion of subsection (e) and what is generally referred to as the "Youthful Offender Act." Exhibit 5. Section 13-8-13(e) provides that:

> (e) Any person sentenced for any offense committed prior to his or her twenty-second birthday, other than a person serving life without parole, shall be eligible for parole review and a parole permit may be issued after the person has served no fewer than twenty (20) years' imprisonment unless the person is entitled to earlier parole eligibility pursuant to any other provisions of law. This subsection shall be given prospective and retroactive effect for all offenses occurring on or after January 1, 1991.

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By providing for retroactive application of subsection (e) to offenses occurring on or after January 1, 1991, the General Assembly, for the first time since before 1981, retroactively applied an amendment to § 13-8-13. Thus, by its retroactive application to *offenses committed* thirty (30) years before the amendment, subsection (e) necessarily impacts sentences already levied by the Superior Court.

B. The Department's Methodology for the Calculation of Prisoners' Parole Eligibility

In formulating its methodology for the calculation of prisoners' parole eligibility dates, the Department had to interpret and apply the parole eligibility guidelines set forth in § 13-8-1, *et seq*. to a multitude of different sentences. Specifically, the Department had to formulate methods to calculate the parole eligibility for prisoners sentenced to a single sentence, concurrent sentences, consecutive sentences, sentences with statutory or court ordered minimum term of imprisonment, and life sentences. The Department applies the following principles in calculating the initial parole eligibility dates of all prisoners who are serving sentences of more than six (6) months.[3]

Any prisoner serving a sentence, which is not a life sentence, is eligible for consideration of parole after serving one third (1/3) of the term for which he or she was sentenced. Sec. 13-8-9(a). Additionally, a prisoner serving a sentence, not

[3] Pursuant to § 13-8-8, prisoners serving less than six (6) months are not eligible for parole.

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including a life sentence, for first- and second-degree murder committed after July 1, 2015, is eligible for parole consideration after serving fifty percent (50%) of his or her total sentence. Sec. 13-8-9(b). However, if one third (1/3) of the prisoner's total sentence is greater than ten (10) years, the prisoner is eligible for parole consideration after he or she has served ten (10) years. Sec. 13-8-13(a)(1).

Any prisoner who is sentenced to multiple sentences, is eligible for consideration of parole after serving one third (1/3) of the aggregate time which he or she shall be required to serve under his or her sentence. Sec. 13-8-10(a). The Department's calculation of parole eligibility of a prisoner serving two (2) or more concurrent sentences is calculated using one third (1/3) of the time between the earliest sentence start date and the latest sentence end date, taking into account any difference in retroactive/start dates.[4] This is referred to as the aggregate time to serve on all of the sentences. Sec. 13-8-10. Additionally, the Department, in calculating the parole eligibility of prisoners serving consecutive sentences, generally aggregates the prisoner's time to serve on all of the sentences in furtherance of § 13-8-10. The prisoner's parole eligibility is calculated at one third

[4] A prisoner serving concurrent sentences of two (2) years retroactive to December 1, 2022, and three (3) years retroactive to December 1, 2023, is parole eligible after serving sixteen (16) months or in April of 2024 (one-third (1/3) of the total sentence taking into account the differing retroactive dates resulting in an additional one (1) year for a total sentence of four (4) years or forty-eight (48) months divided by three (3) = one (1) year and four (4) months or sixteen (16) months).

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(1/3) of the time period between the start date of his or her first sentence and the end date of his or her last sentence.[5]

However, sentences are not aggregated when there is a consecutive sentence with a statutory or court ordered minimum term of imprisonment or there is a sentence for a crime committed after the imposition of the sentence then being served.[6] In this situation, the Department calculates the prisoner's parole eligibility based on the time the prisoner must serve on each individual sentence. First on the earlier sentence and then the subsequent sentence(s) which begin(s) after parole is granted on the earlier sentence.[7] When this occurs, the prisoner is not released to the community but is instead paroled to his/her remaining sentence(s). In order to give true effect to the consecutive sentences and/or minimum mandatory terms of

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[5] A prisoner serving two (2) consecutive sentences of three (3) years each, with a start date of December 1, 2023, is parole eligible after serving two (2) years imprisonment or in December of 2025 (one-third (1/3) of the total of both sentences or six (6) years divided by three (3) = two (2) years).

[6] R.I. Gen. Laws §§ 11-47-3.2, 11-9-5.3, 11-23-2.1, 11-39-2(a), 11-39-2(c), 13-8-10(b), 13-8-13.

[7] A prisoner's sentence would not be aggregated where the sentence is twenty (20) years for first degree robbery of a motor vehicle from the owner and a consecutive twelve (12) year sentence for felony assault resulting in serious bodily injury. Section 11-39-2(a) requires that a person sentenced for first degree robbery of a motor vehicle from the owner serve at least one-half (1/2) of his or her sentence prior to being eligible for parole consideration. Accordingly, this prisoner would not appear before the parole board until he or she has served one-half (1/2) of the twenty (20) years on the robbery charge or ten (10) years. If the prisoner is granted parole at that time, he or she is paroled to his or her felony assault sentence. This prisoner would then have to serve one-third (1/3) of the twelve (12) year sentence or four (4) years before he or she is eligible for consideration of parole into the community.

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imprisonment imposed by Rhode Island law, the Department does not aggregate these sentences.

The Department's methodology for calculating parole eligibility dates for prisoners serving life sentences is based on its interpretation of § 13-8-13 which specifies the mandatory minimum term of years a prisoner must serve before becoming eligible for parole consideration. When ascertaining the initial parole eligibility date on multiple life sentences, the Department aggregates the term of years using the mandatory minimums provided in § 13-8-13.[8] However, a distinction being that a life sentence with a consecutive term of years sentence, is not aggregated when calculating parole eligibility dates.[9] The Department interprets the statute as requiring that the prisoner must first serve the mandatory minimum on the life sentence and, then if parole is granted, the prisoner immediately starts serving

[8] A prisoner sentenced to two (2) consecutive life sentences for first-degree murder committed after June 30, 1995, but prior to July 1, 2015, would not be eligible for parole consideration until he or she has served twenty (20) years on each consecutive life sentence or forty (40) years pursuant to § 13-8-13(a)(3). A prisoner serving (2) two consecutive life sentences for crimes other than first- or second- degree murder committed after June 30, 1995, but before July 1, 2015, would be eligible for consideration of parole after serving fifteen (15) years on each consecutive sentence or thirty (30) years pursuant to § 13-8-13(d).

[9] A prisoner sentenced to life for first degree murder committed after June 30, 1995, but prior to July 1, 2015, and a consecutive sentence of twelve (12) years, would not be eligible for parole consideration until he or she has served twenty (20) years on the life sentence. If the prisoner is granted parole at that time, he or she would be paroled to their consecutive term of years sentence. The prisoner would then serve an additional one-third (1/3) of the twelve (12) year sentence or four (4) years before being eligible for parole to the community.

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his or her consecutive term of years sentence. Simply stated, the prisoner does not begin his or her consecutive term of year sentence until he or she is paroled from their life sentence. A prisoner in this situation would then be eligible for consideration of parole to the community after serving one third (1/3) of his or her consecutive term of years sentence. Thus, to give effect to minimum mandatory terms of imprisonment and the consecutive sentences imposed by the court, the Department does not aggregate sentences of life imprisonment with consecutive terms of years sentences.

C. The Youthful Offender Act, R.I. Gen Laws § 13-8-13(e)

In 2021, § 13-8-13 was amended to add subsection (e). This is generally referred to as the "Youthful Offender Act" and provides that:

> [a]ny person sentenced for any offense committed prior to his or her twenty-second birthday, other than a person serving life without parole, shall be eligible for parole review and a parole permit may be issued after the person has served no fewer than twenty (20) years' imprisonment unless the person is entitled to earlier parole eligibility pursuant to any other provisions of law. This subsection shall be given prospective and retroactive effect for all offenses occurring on or after January 1, 1991.

Sec. § 13-8-13 (e). The 2021 amendment effected prisoners with one or more life sentences and those with lengthy and/or multiple sentences including life sentences with a consecutive term(s) of years. As a result of this amendment, the Department had to adjust its method of parole eligibility calculation for those prisoners who were serving sentences for offenses committed after January 1, 1991, and while they were

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under twenty-two (22) years of age ("youthful offenders"), and had parole eligibility dates greater than twenty (20) years. The Department does not aggregate sentences for prisoners sentenced to life and consecutive term(s) of years, and after the amendment, continues not to aggregate these sentences for youthful offenders. However, the Department, in order to give effect to subsection (e), did amend the parole eligibility dates of youthful offenders to twenty (20) years in instances where the minimum mandatory term to serve under the other subsections of § 13-8-13 was greater than twenty (20) years. Further navigating the statutory maze and giving due effect to the law and to the sentence(s) of the Superior Court, the Department interpreted subsection (e) as prohibiting the aggregation of the youthful offenders' multiple consecutive life sentences, specifically where the minimum mandatory term(s) of imprisonment pursuant to § 13-8-13 were greater than twenty (20) years. Thus, although consecutive life sentences are aggregated for prisoners who are not considered youthful offenders, the Department believes that subsection (e) does not permit the aggregation of consecutive life sentences for youthful offenders.[10]

[10] A prisoner sentenced to two consecutive life sentences (one for first-degree and one for second-degree murder), for a crime committed after July 1, 2015, would not be eligible for parole consideration until he or she has served twenty-five (25) years on each sentence or a total of fifty (50) years. However, a youthful offender, pursuant to subsection (e), would be eligible for parole consideration after serving a minimum mandatory term of twenty (20) years on the first degree murder sentence only and, if paroled, would then begin serving minimum mandatory term on the consecutive second degree murder sentence not becoming eligible for consideration of parole to the community until after he or she has served the additional twenty (20) years. If

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In applying subsection (e) as it is written, "to any offense," the Department has calculated a youthful offender's parole eligibility date based on the parole eligibility date of each sentence that a youthful offender is required to serve. For instance, each sentence receives a parole eligibility date of twenty (20) years unless other provisions of the law provide for less. Parole eligibility is calculated on the earlier sentence first and then the subsequent sentence(s), which begins after parole is granted on the earlier sentence. When this occurs, the prisoner/youthful offender is not released to the community but is instead paroled to his or her remaining sentence(s). The Department's calculation of parole eligibility for youthful offenders is in accord with the statute; to find that subsection (e) provides a twenty (20) year maximum for parole eligibility of a youthful offender regardless of whether he or she is sentenced to one life sentence, or ten life sentences, appears incompatible with the overall statutory scheme of § 13-8-13.

In Rhode Island, a *de novo* standard is applied for the review of all questions of law — including statutory interpretation. See State v. Hazard, 68 A.3d 479, 485 (R.I. 2013)("We review questions of statutory interpretation de novo"). "In matters

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the Department were to aggregate a youthful offender's sentence and find that he/she is eligible for parole to the community after twenty (20) years, a youthful offender would serve thirty (30) years less overall and, if not aggregated, five (5) years less on the first minimum mandatory sentence and, if paroled, not serve a single day of the consecutive sentence or any mandatory minimum term of imprisonment for that sentence.

of statutory interpretation [the Court's] ultimate goal is to give effect to the purpose of the act as intended by the Legislature." Alessi v. Bowen Court Condominium, 44 A.3d 736, 740 (R.I. 2012)(internal citations omitted). "[W]hen the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings." Id. (internal citations omitted). In construing the meaning of a statute, the Court must "consider the entire statute as a whole; individual sections must be considered in the context of the entire statutory scheme, not as if each section were independent of all other sections." Hazard, 68 A.3d at 485. The language of § 13-8-13 is clear and unambiguous, and, therefore, the plain and ordinary meanings of the words shall control. As such, the references to "offense" in the singular is such that the minimum mandatory term of twenty (20) years shall be applied to each offense separately. This is consistent with the calculation method used by the Department. A prisoner with a life sentence plus consecutive term of years, or a prisoner with two or more consecutive life sentences would be afforded the consideration of parole after the first minimum mandatory term (i.e., 20 years) is served. Any granting of parole would be from one sentence to the next giving effect to the parole statutes as a whole. See State v. Benoit, 650 A.2d 1230, 1234 (R.I. 1994) ("As we have noted often, this court must give effect to all of a statute's provisions, with no sentence, clause, or word construed as unmeaning or surplusage")(internal quotations omitted); see also

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Rhode Island Department of Mental Health, Retardation and Hospitals v. R.B., 549 A.2d 1028, 1030 (R.I. 1988); In re Rhode Island Commission for Human Rights, 472 A.2d 1211, 1212 (R.I. 1984).

The State argues in its brief that "[i]nterpreting 13-8-13(e) as applying to individuals serving life and a consecutive sentence or consecutive sentences would run counter to how the D.O.C. determined parole eligibility for other individuals serving life and a consecutive sentence." This statement is accurate and, as a result, the Department continued the practice of not aggregating sentences of life plus a term(s) of years and stopped aggregating those consecutive life sentences as applied to prisoners under twenty-two (22) years of age.[11] After the 2021 amendment, the Department reviewed the relevant sentences and scheduled any youthful offenders, determined to be eligible for parole under subsection (e), for an appearance before the parole board.[12] The Department believed that to interpret the statutory provisions any other way would fail to give effect to consecutive sentences imposed by the Superior Court. Specifically, a prisoner sentenced to a life sentence plus a consecutive term of years (such as Petitioners Neves, Ortega, and Nunes), would be

[11] In response to the Court's order dated November 23, 2023, the Department here articulates when it stopped aggregating the sentences of youthful offenders.

[12] In further response to the Court's order, the Department provides that in order to give youthful offenders notice of the changes, the Department scheduled all prisoners found to be eligible for parole under subsection(e) to be presented to the Parole Board at the next available date.

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eligible for consideration of parole after twenty (20) years and, if paroled, would never serve a single day of their consecutive sentences, thereby nullifying the consecutive sentence ordered by the Superior Court. Similarly, a prisoner sentenced to two or more consecutive life sentences (such as Petitioner Monterio) would be eligible for consideration of parole at twenty (20) years and, if paroled, would never serve a single day of the consecutive life sentence. The Supreme Court rarely interferes with the discretion of a trial justice as it relates to the imposition of sentence, doing so only in those situations where the imposition of the sentence is grossly disparate from other sentences imposed for similar offenses. See State v. Briggs, 263 A.3d 739, 742 (R.I. 2021) ("This Court follows a strong policy against interfering with a trial justice's discretion in sentencing matters")(internal quotations omitted); see also State v. Ruffner, 5 A.3d 864, 867 (R.I. 2010)(the Court "only will interfere with that discretion in rare instances when the trial justice has imposed a sentence that is without justification and is grossly disparate from other sentences generally imposed for similar offenses")(internal quotations omitted).

Furthermore, the Department's application of § 13-8-13(e) to each sentence, gives due consideration to the overall statutory scheme of § 13-8-13. When confronted with two statutory provisions, the Court should first look to whether the statutory provisions can be harmonized. As explained by R.I. Gen. Laws § 43-3-26, in pertinent part:

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> [w]herever a general provision shall be in conflict with a special provision relating to the same or to a similar subject, the two (2) provisions shall be construed, if possible, so that effect may be given to both; and in those cases, if effect cannot be given to both, the special provision shall prevail and shall be construed as an exception to the general provision.

Sec. 43-3-26

The Department has interpreted § 13-8-13(e) in harmony with subsections (a) and (d) – giving effect to all provisions. This interpretation is in accord with the plain and unambiguous language of § 13-8-13(a) and (d) which provide that parole may be granted only after the prisoner has served the minimum mandatory period of time prescribed by § 13-8-13 "consecutively on each life sentence." In harmonizing subsection (e), with the other subsections of § 13-8-13, the Department believes that a prisoner cannot be paroled from his or her first sentence to their consecutive sentence or to the community until he or she has served the mandatory minimum term(s) of imprisonment. To do otherwise, fails to give effect to the sentence imposed by the Superior Court and would result in prisoners being paroled without serving any portion of their consecutive sentence(s), whether they are a life sentence(s) or term(s) of years.

Prior to July 1, 2015, § 13-8-13 was ambiguous with regard to how parole eligibility should be calculated for a prisoner who is serving a life sentence on a murder charge and a consecutive life sentence on a non-murder charge. Section 13-8-13 (a)(1)-(3) were the only subsections that referenced prisoners sentenced to life

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for first- or second-degree murder. This subsection, however, was devoid of any reference to consecutive life sentences. The only subsection that referenced consecutive life sentences was § 13-8-13(d). Yet, § 13-8-13(d) made no reference specifically to murder sentences and referred simply to crimes generally until after July 1, 2015. [13] It is unclear whether "crimes" in § 13-8-13(d), prior to July 1, 2015, include first- and second-degree murder. [14] The Superior Court has considered this issue and opined that it disagreed with the Department's interpretation. Contra, Order, State v. Reyes, PM-2023-03653 (R.I. Super. Jan 19, 2024)(attached as Exhibit 6). With the retroactive application of subsection (e), this issue is subject to repetition as applied to a youthful offender.

In further explanation, in calculating the parole eligibility of a prisoner sentenced to two consecutive life sentences, one for first-degree murder and a second consecutive life sentence for discharging a firearm resulting in death, both of which

[13] Since § 13-8-13(d) did not reference first- or second-degree murder prior to 2015, the Department relied on § 13-8-13(a) to calculate parole eligibility dates for prisoners sentenced to consecutive life sentences for these crimes. In relying on this subsection, the Department concluded that the prisoner would have to serve the mandatory minimum on each sentence prior to being eligible for parole to the community.

[14] The Department believes it is important to point out that while § 13-8-13(d) now references first- or second-degree murder, the General Assembly has prescribed different mandatory minimums for consecutive murder sentences versus other life sentences. As a result, it is unclear whether a prisoner sentenced to first degree murder and a consecutive life sentence for discharging a firearm resulting in death committed after July 1, 2015, is parole eligible after fifty (50) years or forty-five (45) years.

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were committed between June 30, 1995, and July 1, 2015, the Department calculates this prisoner's parole eligibility using § 13-8-13(a) and (d). In accordance with § 13-8-13(a)(3), the prisoner would first serve a minimum of twenty (20) years on the life sentence for first-degree murder and would also be required to serve an additional fifteen (15) years on the consecutive life term for discharging a firearm resulting in death, in accordance with § 13-8-13(d). Thus, this prisoner would serve a total aggregate amount of thirty-five (35) years before being eligible for parole. Applying only § 13-8-13(d), as was done in Reyes, would result in a prisoner only having to serve fifteen years consecutively on each sentence, thus making the prisoner parole eligible after serving thirty (30) years. This interpretation disregards the minimum mandatory term to serve of twenty (20) years for first- and second-degree murder found in 13-8-13(a)(3).

In the context of a youthful offender, who by the Department's interpretation of § 13-8-13(e) is parole eligible on his first sentence only after serving twenty (20) years, is susceptible to differing interpretations as to what mandatory term of imprisonment applies for the youthful offender's consecutive life sentence(s) for crimes such as first- or second- degree murder and discharging a firearm resulting in death committed between July 10, 1989, and July 1, 2015. The statute is unclear whether the offender's parole eligibility on the remaining consecutive sentences

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should be calculated using § 13-8-13(d) or the mandatory minimums in § 13-8-13(a)(2)-(3), or a combination of §§ 13-8-13(a)(2)-(3) and 13-8-13(d).

D. Separation of Powers

The Department concurs with the State, and joins in its argument, that to interpret § 13-8-13(e) as applying to youthful offenders serving life plus a consecutive term or terms of years or serving consecutive life sentences would raise separation of powers concerns. The Department's interpretation and application of § 13-8-13, including but not limited to subsection (e), gives due deference to the authority of both the General Assembly and the Judiciary. The Department's calculation of parole eligibility adheres to § 13-8-13's timing for initial parole consideration of prisoners and respects the criminal sentence(s) set forth by the Superior Court for prisoners.

Article 5 of the Rhode Island Constitution provides that "[t]he powers of the government shall be distributed into three separate and distinct departments: the legislative, executive and judicial;" colloquially referred to as the doctrine of separation of powers. The doctrine of separation of powers "'prohibit the usurpation of the power of one branch of government by a coordinate branch of government.'" Quattrucci v. Lombardi, 232 A.3d 1062, 1065-66 (R.I. 2020)(quoting Moreau v. Flanders, 15 A.3d 565, 579 (R.I. 2011)). This Court has determined that the doctrine "'may be violated in two ways. One branch may interfere impermissibly with the

other's performance of its ally assigned function. Alternatively, the doctrine may be violated when one branch assumes a function that more properly is entrusted to the other.'" Quattrucci, 232 A.3d at 1066 (quoting Woonsocket School Committee v. Chafee, 89 A.3d 778, 793 (R.I. 2014)). The power of the judiciary is found in Article 10, Section 1 of the Rhode Island Constitution; and this Court has "'defined the exercise of judicial power as the control of a decision in a case or the interference with its progress, or the alteration of the decision once made.'" Quattrucci, 232 A.3d at 1066.

Interpreting § 13-8-13(e) in a manner that fails to recognize the Superior Court's exercise of its judicial power to impose consecutive sentences could run afoul of the separation of powers doctrine. As the State posited, interpreting § 13-8-13(e) as allowing an individual to be paroled after serving twenty (20) years, without having to serve his/her time on a consecutive sentence, would effectively nullify the Superior Court's imposition of the sentence and the judgment of conviction. Such an interpretation treads on the court's judicial power over a case and seemingly violates the separation of powers as articulated in our Rhode Island Constitution. However, to interpret § 13-8-13(e) as the Department has applied it, gives due respect to the authority of the Judiciary and the Legislature.

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III. CONCLUSION

The Rhode Island General Assembly has entrusted the Department with the responsibility of regularly providing the parole board with a list of all persons eligible for parole. In furtherance of this responsibility, the Department must calculate the parole eligibility dates for all prisoners and is thus ultimately tasked with interpreting § 13-8-1, *et seq*, and applying it to a myriad of sentences ordered by the Rhode Island Courts. This Court's decision on these issues of first impression will have a significant impact on the Department's interpretation and application of § 13-8-13 and ultimate parole eligibility calculations. As a result, the Department has a profound interest in this Court's ruling and eagerly awaits any guidance that the Court deems appropriate to provide.

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CERTIFICATE OF WORD COUNT & COMPLIANCE WITH RULE 18(b)

1. This Brief contains 6,547 words, excluding the parts exempted from the word count by Rule 18(b).

2. This Brief complies with the font, spacing, and type size requirements stated in Rule 18(b).

/s/ Nicole B. DiLibero

Nicole B. DiLibero, #6749

CERTIFICATE OF SERVICE

I hereby certify that, on the 19th day of February 2024, I served this document through the electronic filing system, and it is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System to Counsel of Record, For Petitioners, Lisa Holley, Esquire; Lynette Labinger, Esquire; and Sonja Deyoe, Esquire, and for Respondent, State of Rhode Island, Christopher Bush, Esquire.

/s/ Nicole B. DiLibero

Nicole B. DiLibero, #6749

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EXHIBIT

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CHAPTER 36.

AN ACT Relating to Parole of Prisoners Sentenced to Life Imprisonment

81-H 5471. Approved May 7, 1981.

It is enacted by the General Assembly as follows:

Parole eligibility.

Section 1. Section 13-8-13 of the General Laws in Chapter 13-8 entitled "Parole" is hereby amended to read as follows:

Life prisoners and prisoners with lengthy sentences.

13-8-13. PAROLE OF LIFE PRISONERS AND PRISONERS WITH LENGTHY SENTENCES. — A. In case of a prisoner sentenced to imprisonment for life, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment provided, however, in case of a prisoner serving a sentence or sentences of a length making him ineligible for a permit in less than ten (10) years pursuant to 13-8-9 and 13-8-10, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment, and provided further that the aforesaid permit shall be issued only by a unanimous vote of all the attending members of the board, providing that not less than four members are present, and whenever after the issue of such permit such prisoner shall be pardoned, then the control of the board over such prisoner shall cease and determine; provided however, that in case of a prisoner sentenced to imprisonment for life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions such permit may be issued only after such

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prisoner has served not less than twenty-five (25) years imprisonment; and provided, further, that for each subsequent conviction of such escape or attempted escape, an additional five (5) years shall be added to the time so required to be served.

Prisoner sentenced consecutively to more than one life term.

B. In case of a prisoner sentenced consecutively to more than one life term, for crimes occurring after the effective date of this statute, such permit may be issued only after such prisoner has served not less than ten (10) years consecutively on each life sentence; provided, however, that nothing contained in this subsection shall be construed as permitting the issuance of such a permit when a prisoner who has been sentenced consecutively to more than one life term for crimes occurring before the effective date of this act has served not less than ten (10) years on each life sentence.

Act effective, when.

Sec. 2. This act shall take effect upon passage.

CHAPTER 37.

81-H 6497
Approved
May 7, 1981.

AN ACT Validating Certain Provisions of the Home Rule Charter Adopted by the City of Providence

City of Providence. Home rule charter.

WHEREAS, A home rule charter has been adopted by the city of Providence in the state of Rhode Island in accordance with the procedures set forth in article XXVIII of the articles of amendment to

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EXHIBIT

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October 1, 1991. A service charge in the amount of forty dollars ($40.00) shall be required upon application, with twenty dollars ($20.00) of said service charge being retained by the foundation and twenty dollars ($20.00) being allocated to the division of motor vehicles for its costs in manufacturing and distributing such special plates.

Upon the expiration of such special plates, the applicant may retain them in the applicant's own keeping provided the applicant does not display such plate upon such motor vehicle or any other form of transportation owned or operated by the applicant.

SECTION 2. This act shall take effect upon passage.

CHAPTER 419

89-H 6337A
Approved Jul. 10, 1989.

AN ACT RELATING TO CRIMINALS -- CORRECTIONAL INSTITUTIONS -- PAROLE

It is enacted by the General Assembly as follows:

SECTION 1. Sections 13-8-1, 13-8-2, 13-8-5, 13-8-6, 13-8-11, 13-8-13, 13-8-14 and 13-8-23 of the General Laws in Chapter 13-8 entitled "Criminals -- Correctional Institutions" are hereby amended to read as follows:

13-8-1. ~~Parole board Appointment and terms of members~~ 5Division of parole -- Parole board -- Appointment and terms of members. -- Within the department of corrections there shall be a parole board consisting of ~~five (5)~~ six (6) qualified electors of the state appointed by the governor. In the month of January in each year, the governor shall appoint one (1) member of said board to serve for a term of three (3) years and until his/her successor has been appointed and has qualified.

13-8-2. Qualifications of members of board. -- The ~~five (5)~~ six (6) electors to be named by the governor shall have the following qualifications: (1) one of the said qualified electors shall be a physician who is professionally qualified in the field of psychiatry or neurology; one shall be a member of the Rhode Island bar in good standing;

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one shall be a person who is professionally trained in correctional work or in some such closely related general field as social work; <u>one shall be a law enforcement officer;</u> (2) all of the said qualified electors shall be individuals who shall also have shown an interest in social welfare problems.

13-8-5. ~~Executive-secretary-and-stenographic-service~~ Staffing of the parole board. -- The director of corrections shall provide the board with an executive secretary, <u>an investigator, a clerk and a psychologist(s) whose sole function within the department of corrections shall be to consult with the parole board</u> and the necessary stenographic service. The ~~salary~~ <u>salaries</u> of ~~said--executive--secretary~~ <u>the aforementioned</u> shall be paid from the appropriation of the department of corrections.

13-8-6. Duties of executive secretary -- Case folders. -- The duties of the executive secretary shall include the following: to administer the office of the board; to supervise the collection of data for each applicant for parole; to summarize collected data and prepare a folder on each applicant for parole including the summary of the information collected from the above sources, or any other sources which are deemed appropriate, together with the original supporting documents, and all communications addressed to the board and its members concerning said applicant for parole; to maintain in the folder of each applicant, the report of the parole board provided for in section 13-8-23; to arrange for each meeting of the parole board; to prepare all reports required of the parole board; to send to the state police a list of all persons, including their date of birth and last known address prior to incarceration, <u>lead offenses and the name of the police department which prosecuted the person</u> whose application for parole is to be considered by the parole board, not less than six (6) weeks prior to the meeting to consider said applications, in order that the state police can provide said information to all local police departments in the state of Rhode Island, by teletype, so that the state police and the local police departments may return any comment deemed appropriate at least two (2) weeks prior to the scheduled meeting; to furnish the attorney general, the state police and the local police departments set forth in section 13-8-9.1 with a photograph (or a reasonable facsimile thereof) of each prisoner released, taken at the time of his or her release on parole; to notify the police department of the town or city in which the prisoner resided before sentence and the police department of the city or town in which he is to reside, at least five (5) days prior to release of any prisoner on parole, of said release; <u>to have published in a newspaper of general circulation, once a month, the</u>

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names of the persons whose applications for parole are to be considered within the upcoming month and the hearing date or dates thereof; to prepare a list of all individuals released by said board; to maintain said list in the permanent files of the office of the parole board which list shall be a public record; to confer with the director of corrections on all matters relating to the activities of the parole board; to perform related duties as required. Case folders shall be made available to each member of the board not less than a week prior to its meeting to interview applicants for parole and shall be maintained in the permanent files of the board.

~~13-8-11.--Good-conduct-time-excluded-in-computation------Inclusion of--time--off--for--blood-donation.---~~ **13-8-11. Good conduct and blood donation time excluded in computation.** -- In computing the one-third (1/3) of any term of sentence for the purpose of sections 13-8-9 to 13-8-14, inclusive, the time a prisoner shall have earned for good conduct ~~and~~ , industrial conduct and blood donations shall not be considered~~;--however,--the--time-a-prisoner-shall-have-earned-for-blood-donations-pursuant-to-section-42-56-25-shall-be-considered.~~ .

13-8-13. Parole of life prisoners and prisoners with lengthy sentences. -- (a) In case of a prisoner sentenced to imprisonment for life, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment provided, however, in case of a prisoner serving a sentence or sentences of a length making him ineligible for a permit in less than ten (10) years pursuant to section 13-8-9 and section 13-8-10, such permit may be issued at any time after such prisoner has served not less than ten (10) years imprisonment, provided, however, that in the case of a prisoner sentenced to imprisonment for life for a first or second degree murder committed after the effective date of this act, such permit may be issued only after such prisoner has served not less than fifteen (15) years imprisonment, and provided further that the aforesaid permit shall be issued only by a unanimous vote of all the attending members of the board, providing that not less than four (4) members are present, and whenever after the issue of such permit such prisoner shall be pardoned, then the control of the board over such prisoner shall cease and determine; provided, however, that in case of a prisoner sentenced to imprisonment for life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions such permit may be issued only after such prisoner has served not less than twenty-five (25) years imprisonment; and, provided, further, that for each subsequent conviction of such escape or attempted escape, an additional five (5) years shall be added

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to the time so required to be served.

(b) In case of a prisoner sentenced consecutively to more than one life term, for crimes occurring after [May 7, 1981], such permit may be issued only after such prisoner has served not less that ten (10) years consecutively on each life sentence; provided, however, that nothing contained in this subsection shall be construed as permitting the issuance of such a permit when a prisoner who has been sentenced consecutively to more than one life term for crimes occurring before [May 7, 1981] has served not less than ten (10) years on each life sentence.

13-8-14. **Parole release criteria.** -- A permit shall not be issued to any prisoner under the authority of 13-8-9 to 13-8-13 inclusive unless it shall appear to the board:

(a) That the prisoner has substantially observed the rules of the institution in which confined as evidenced by reports submitted to the parole board by the director of the department of corrections, or his designated representatives, in a form to be prescribed by the director;

(b) That release would not depreciate the seriousness of his offense or promote disrespect for law;

(c) That there is a reasonable probability that the prisoner, if released, would live and remain at liberty without violating the law; and

(d) That the prisoner can properly assume a role in the city or town in which he is to reside. In assessing his role in the community the board shall consider:

(1) whether or not the prisoner has employment

(2) the location of his residence and place of employment

(3) the needs of the prisoner for special services, including but not limited to, specialized medical care and rehabilitative services.

It is further provided that in the case of a prisoner sentenced to imprisonment for life who is released on parole and who is subsequently convicted of a crime of violence as defined in 11-47-2, said conviction shall constitute an automatic revocation of parole and the prisoner shall not be eligible for parole thereafter.

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It is further provided that in the case of a prisoner convicted of a crime of violence as defined in section 11-47-2 and subsequently released on parole, should said prisoner, while on parole, commit an offense which results in a sentence of imprisonment for life, said conviction shall constitute an automatic revocation of parole and said prisoner shall not be eligible for parole thereafter.

13-8-23. Agencies required to give reports to parole board. -- Information concerning applicants for parole shall be provided by:

(a) the assistant director of adult services who shall submit a list of all prisoners under his control who will be eligible for parole in a given month not later than the tenth day of the second month preceding. Such list shall identify the prisoner by name, offense, date of commitment;

(b) the assistant director of adult services who shall secure reports from prison officials who have had direct contact with the prisoner including but not limited to the deputy assistant director of adult services, the chaplain, the work detail officer, the prison physician, and the classification officer. He shall transmit such reports, together with all pertinent classification information, such as social history, etc., and any actions or recommendations made by a classification board or committee in the institution, to the office of the parole board not later than the twentieth day of the month next preceding the month in which the individual is eligible to appear before the board;

(c) the attorney general's department who shall supply to the office of the parole board a written report of any its recommendation which-it-may-care-to-make,-and concerning the current application for parole. The report shall set forth in detail the reason or reasons why the particular inmate, given his criminal history and the circumstances surrounding his offense, should or should not be paroled. The department shall also consult the trial judge in the case to determine if he or she may wish to make any comment or recommendation; and if requested by the parole board, the department shall have one (1) of its attorneys present at the board hearings to elaborate on the attorney general's recommendation as to parole of the inmate;

(d) the state psychiatrist who shall examine the prisoner upon notice from the office of the parole board and shall submit his findings and recommendations to the office of the parole board not later than the twentieth day of the month next preceding the month in which

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the prisoner is eligible to appear before the board;

(e) the psychological services agency who shall upon notice from the office of the parole board examine the prisoner and report their findings and recommendations to the office of the parole board not later than the twentieth day of the month next preceding the month in which the prisoner is eligible to appear before the board; provided, however, no applicant for parole who is incarcerated for a crime of violence as defined in section 11-47-2, shall be considered for parole unless a psychological examination of said applicant that included standardized national psychological testing was completed within one (1) year prior to the applicant's parole hearing date or any continuance thereof;

(f) the state department of corrections which shall submit a transcript of the previous criminal record of the prisoner including the date of offenses, nature of offenses, and the disposition of each; a copy of the presentence investigation; a full summary of the contact of this division with the prisoner during any prior period under supervision, either probation or parole or both; ~~and--any--recommendations concerning--the--current--application--for-parole.~~ shall make a written recommendation concerning the current application for parole.

SECTION 2. Section 12-28-6 of the General Laws in Chapter 12-28 entitled "Rights of the Victim" is hereby amended to read as follows:

12-28-6. Victim's right to address parole board. -- Prior to acting upon the petition or any continuance thereof of an inmate at the adult correctional institution or the women's reformatory, the parole board shall notify the victim, if any be identified and his or her residence be known, of the criminal conduct for which said inmate has been incarcerated of the pendency of the proceedings before the board. The victim shall upon request be afforded the opportunity to address the board regarding the impact of the crime upon the victim.

Should the parole board be unable to locate the victim, the board shall seek the assistance of the local police department of the city or town where the victim was last known to have resided. Said police department shall make every effort to locate said victim and shall, no later than thirty (30) days from the date its assistance was sought, send a written report to the parole board detailing its efforts to locate said victim.

Whenever the parole board shall seek the assistance of any police

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department in locating a victim, the board shall not act upon the inmate's petition until it has reviewed the written report from the assisting police department.

For the purposes of this section, a victim is one who has sustained personal injury or loss of property directly attributable to the criminal conduct for which the inmate has been incarcerated. In homicide cases, a member of the immediate family of the victim shall be afforded the right created by this section.

SECTION 3. This act shall take effect upon passage.

CHAPTER 420

89-H 6377
Approved Jul. 10, 1989.

AN ACT RELATING TO ELECTIONS -- VOTING DISTRICTS AND OFFICIALS

It is enacted by the General Assembly as follows:

SECTION 1. Sections 17-11-11 and 17-11-13 of the General Laws in Chapter 17-11 entitled "Voting Districts and Officials" are hereby amended to read as follows:

17-11-11. Selection of wardens and clerks in cities. -- At least twenty (20) days before any election, the local board in each city shall appoint for each polling place within the city wherein an election is to be held a warden and clerk, one of whom shall be a Republican and the other of whom shall be a Democrat. Such appointments shall be made from a list of not less than ten (10) qualified party voters presented to said board by the city or town committee of the Republican and Democratic parties, respectively, the Republican election officials to be selected from the Republican list, and the Democratic election officials from the Democratic list, or in case any such committee shall fail to submit the list within the required time, they shall select election officials from the party voters of the same political party as the committee so failing to submit the list. The local board may adopt a plan for some or all wardens or clerks to work a half-day at half-pay if said plan is consistent with the provisions of this section and is approved by the state board.

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EXHIBIT

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CHAPTER 129

95-H 5069A
Approved Jun. 30, 1995.

AN ACT RELATING TO CORRECTIONAL INSTITUTIONS -- PAROLE AND LIFE PRISONERS

It is enacted by the General Assembly as follows:

SECTION 1. Section 13-8-13 of the General Laws in Chapter 13-8 entitled "Parole" is hereby amended to read as follows:

13-8-13. Life prisoners and prisoners with lengthy sentences. -- (a) In case of a prisoner sentenced to imprisonment for life, a parole permit may be issued at any time after the prisoner has served not less than ten (10) years imprisonment, provided, however, in case of a prisoner serving a sentence or sentences of a length making him or her ineligible for a permit in less than ten (10) years, pursuant to section 13-8-9 and section 13-8-10, the permit may be issued at any time after the prisoner has served not less than ten (10) years imprisonment, provided, however, that in the case of a prisoner sentenced to imprisonment for life for a first or second degree murder committed after July 10, 1989, the permit may be issued only after the prisoner has served not less than fifteen (15) years imprisonment, provided further, however, in the case of a prisoner sentenced to imprisonment for life for a first or second degree murder committed after the date of the passage of this act, such permit may be issued only after such prisoner has served not less than twenty (20) years imprisonment, and provided further that the permit shall be issued only by a unanimous vote of all the attending members of the board, providing that not less than four (4) members are present, and whenever after the issue of the permit the prisoner shall be pardoned, then the control of the board over the prisoner shall cease and determine; provided, however, that in case of a prisoner sentenced to imprisonment for life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than twenty-five (25) years imprisonment; and, provided, further, that for each subsequent conviction of the escape or attempted escape, an additional five (5) years shall be added to the time so required to be

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Chapter 13-8

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(b) In case of a prisoner sentenced consecutively to more than one life term, for crimes occurring after May 7, 1981, the permit may be issued only after the prisoner has served not less that ten (10) years consecutively on each life sentence; ~~provided, however, that nothing contained in this subsection shall be construed as permitting the issuance of a permit when a prisoner who has been sentenced consecutively to more than one life term for crimes occurring before May 7, 1981 has served not less than ten (10) years on each life sentence.~~ provided, however, in the case of a prisoner sentenced consecutively to more than one (1) life term, for crimes occurring after the date of passage of this act, the permit may be issued only after the prisoner has served not less than fifteen (15) years consecutively on each life sentence.

SECTION 2. This act shall take effect upon passage.

CHAPTER 130

95-H 5080A
Approved Jun. 30, 1995.

AN ACT RELATING TO DRIVING UNDER THE INFLUENCE OF LIQUOR OR DRUGS

It is enacted by the General Assembly as follows:

SECTION 1. Sections 31-27-2.2 and 31-27-2.6 of the General Laws in Chapter 31-27 entitled "Motor Vehicle Offenses" are hereby amended to read as follows:

31-27-2.2. Driving under the influence of liquor or drugs, resulting in death. --
(a) When the death of any person other than the operator ensues as a proximate result of an injury received by the operation of any vehicle, the operator of which is under the influence of, any intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21 or any combination thereof, the person so operating the vehicle shall be guilty of "driving under the influence of liquor or drugs, resulting in death."

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Chapter 162

2021 — H 6122 SUBSTITUTE A AS AMENDED
Enacted 7/06/2021

AN ACT
MAKING APPROPRIATIONS FOR THE SUPPORT OF THE STATE FOR THE FISCAL YEAR ENDING JUNE 30, 2022

Introduced By: Representative Marvin L. Abney
Date Introduced: March 11, 2021

It is enacted by the General Assembly as follows:

ARTICLE 1 RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2022
ARTICLE 2 RELATING TO STATE FUNDS
ARTICLE 3 RELATING TO GOVERNMENT REFORM AND REORGANIZATION
ARTICLE 4 RELATING TO DEBT MANAGEMENT ACT JOINT RESOLUTIONS
ARTICLE 5 RELATING TO MAKING REVISED APPROPRIATIONS IN SUPPORT OF FY 2021
ARTICLE 6 RELATING TO TAXES AND REVENUE
ARTICLE 7 RELATING TO THE ENVIRONMENT
ARTICLE 8 RELATING TO PUBLIC UTILITIES AND CARRIERS
ARTICLE 9 RELATING TO ECONOMIC DEVELOPMENT
ARTICLE 10 RELATING TO EDUCATION
ARTICLE 11 RELATING TO LEASE AGREEMENTS FOR LEASED OFFICE AND OPERATING SPACE
ARTICLE 12 RELATING TO MEDICAL ASSISTANCE
ARTICLE 13 RELATING TO HUMAN SERVICES
ARTICLE 14 RELATING TO HOUSING
ARTICLE 15 RELATING TO EFFECTIVE DATE

ARTICLE 1 AS AMENDED
RELATING TO MAKING APPROPRIATIONS IN SUPPORT OF FY 2022

SECTION 1. Subject to the conditions, limitations and restrictions hereinafter contained in this act, the following general revenue amounts are hereby appropriated out of any money in the treasury not otherwise appropriated to be expended during the fiscal year ending June 30, 2022. The amounts identified for federal funds and restricted receipts shall be made available pursuant to ~~section~~ § 35-4-22 and ~~Chapter~~ chapter 41 of ~~Title~~ title 42 ~~of the Rhode Island General Laws~~. For the purposes and functions hereinafter mentioned, the state controller is hereby authorized and directed to draw his or her orders upon the general treasurer for the payment of such sums or

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EXHIBIT

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CHAPTER 284

2015 – H 5158 SUBSTITUTE A
Enacted 07/15/2015

AN ACT
RELATING TO CRIMINALS – CORRECTIONAL INSTITUTIONS

Introduced By: Representatives Serpa, Phillips, Hull, Costa, and Carnevale
Date Introduced: January 21, 2015

It is enacted by the General Assembly as follows:

SECTION 1. Sections 13-8-9 and 13-8-13 of the General Laws in Chapter 13-8 entitled "Parole" are hereby amended to read as follows:

13-8-9. Issuance of parole. – (a) The parole board, in the case of any prisoner whose sentence is subject to its control, unless that prisoner is sentenced to imprisonment for life, and unless that prisoner is confined as a habitual criminal under the provisions of § 12-19-21, may, by an affirmative vote of a majority of the members of the board, issue to that prisoner a permit to be at liberty upon parole, whenever that prisoner has served not less than one-third (1/3) of the term for which he or she was sentenced. The permit shall entitle the prisoner to whom it is issued to be at liberty during the remainder of his or her term of sentence upon any terms and conditions that the board may prescribe.

(b) Notwithstanding the provisions of subsection (a) of this section, in the case of a conviction for a **first-** or **second-degree** murder committed after July 1, 2015, when the prisoner has not been sentenced to life, the prisoner shall not be eligible for a parole permit until he or she has served at least fifty-percent (50%) of his or her sentence.

13-8-13. Life prisoners and prisoners with lengthy sentences. – (a) In the case of a prisoner sentenced to imprisonment for life, a parole permit may be issued at any time after the prisoner has served not less than ten (10) years ~~imprisonment provided;~~ **imprisonment; provided** that:

(1) In the case of a prisoner serving a sentence or sentences of a length making him or her ineligible for a permit in less than ten (10) years, pursuant to §§ 13-8-9 and 13-8-10, the permit may be issued at any time after the prisoner has served not less than ten (10) years imprisonment.

(2) In the case of a prisoner sentenced to imprisonment for life for a ~~first or second~~ **first- or second-**degree murder committed after July 10, 1989, the permit may be issued only after the prisoner has served not less than fifteen (15) years imprisonment.

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(3) ~~(i)~~ In the case of a prisoner sentenced to imprisonment for life for a ~~**first or second**~~ **first- or second-**degree murder committed after June 30, 1995, the permit may be issued only after the prisoner has served not less than twenty (20) years imprisonment; ~~and~~

(4) In the case of a prisoner sentenced to imprisonment for life for a **first- or second-degree** murder committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty-five (25) years imprisonment.

(5) In the case of a prisoner sentenced to imprisonment for life for a crime, other than **first-** or **second-degree** murder, committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years imprisonment.

~~(ii)~~ (b)The permit shall be issued only by a unanimous vote of all the attending members of the ~~**board, providing**~~ **board; provided** that not less than four (4) members are present, and whenever, after the issue of the permit, the prisoner shall be pardoned, then the control of the board over the prisoner shall cease and terminate.

~~(4) (i)~~(c)(1) In the case of a prisoner sentenced to imprisonment for life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than twenty-five (25) years imprisonment; provided, however, that as to a prisoner who has been sentenced to imprisonment for life for a conviction of **first- or second-degree** murder, committed after July 1, 2015, and who is convicted thereafter of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than thirty-five (35) years imprisonment; and

~~(ii)~~(2) For each subsequent conviction of escape or attempted escape, an additional five (5) years shall be added to the time required to be served.

~~(b)~~(d) In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after May 7, 1981, the permit may be issued only after the prisoner has served not less than ten (10) years consecutively on each life sentence; provided, in the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after June 30, 1995, the permit may be issued only after the prisoner has served not less than fifteen (15) years consecutively on each life sentence. In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years consecutively on each life sentence. In the case of a prisoner sentenced consecutively to more than one life term for crimes, including **first- or second-degree** murder, occurring after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty-five (25) years consecutively on each life sentence.

SECTION 2. This act shall take effect upon passage.

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CHAPTER 285

2015 – S 0132 SUBSTITUTE A
Enacted 07/15/2015

AN ACT
RELATING TO CRIMINALS – CORRECTIONAL INSTITUTIONS

Introduced By: Senators Raptakis, Lombardi, McCaffrey, Lombardo, and Nesselbush
Date Introduced: January 22, 2015

It is enacted by the General Assembly as follows:

SECTION 1. Sections 13-8-9 and 13-8-13 of the General Laws in Chapter 13-8 entitled "Parole" are hereby amended to read as follows:

13-8-9. Issuance of parole. – (a) The parole board, in the case of any prisoner whose sentence is subject to its control, unless that prisoner is sentenced to imprisonment for life, and unless that prisoner is confined as a habitual criminal under the provisions of § 12-19-21, may, by an affirmative vote of a majority of the members of the board, issue to that prisoner a permit to be at liberty upon parole, whenever that prisoner has served not less than one-third (1/3) of the term for which he or she was sentenced. The permit shall entitle the prisoner to whom it is issued to be at liberty during the remainder of his or her term of sentence upon any terms and conditions that the board may prescribe.

(b) Notwithstanding the provisions of subsection (a) of this section, in the case of a conviction for a **first- or second-degree** murder committed after July 1, 2015, when the prisoner has not been sentenced to life, the prisoner shall not be eligible for a parole permit until he or she has served at least fifty-percent (50%) of his or her sentence.

13-8-13. Life prisoners and prisoners with lengthy sentences. – (a) In the case of a prisoner sentenced to imprisonment for life, a parole permit may be issued at any time after the prisoner has served not less than ten (10) years ~~imprisonment provided,~~ **imprisonment; provided** that:

(1) In the case of a prisoner serving a sentence or sentences of a length making him or her ineligible for a permit in less than ten (10) years, pursuant to §§ 13-8-9 and 13-8-10, the permit may be issued at any time after the prisoner has served not less than ten (10) years imprisonment.

(2) In the case of a prisoner sentenced to imprisonment for life for a ~~first or second~~ **first- or second-**degree murder committed after July 10, 1989, the permit may be issued only after the prisoner has served not less than fifteen (15) years imprisonment.

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(3) ~~(i)~~ In the case of a prisoner sentenced to imprisonment for life for a ~~**first or second**~~ **first- or second-**degree murder committed after June 30, 1995, the permit may be issued only after the prisoner has served not less than twenty (20) years imprisonment; ~~and~~

(4) In the case of a prisoner sentenced to imprisonment for life for a **first- or second-degree** murder committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty-five (25) years imprisonment.

(5) In the case of a prisoner sentenced to imprisonment for life for a crime, other than **first-** or **second-degree** murder, committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years imprisonment.

~~(ii)~~ (b)The permit shall be issued only by a unanimous vote of all the attending members of the ~~**board; providing**~~ **board; provided** that not less than four (4) members are present, and whenever, after the issue of the permit, the prisoner shall be pardoned, then the control of the board over the prisoner shall cease and terminate.

~~(4) (i)~~(c)(1) In the case of a prisoner sentenced to imprisonment for life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than twenty-five (25) years imprisonment; provided, however, that as to a prisoner who has been sentenced to imprisonment for life for a conviction of **first- or second-degree** murder, committed after July 1, 2015, and who is convicted thereafter of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than thirty-five (35) years imprisonment; and

~~(ii)~~(2) For each subsequent conviction of escape or attempted escape, an additional five (5) years shall be added to the time required to be served.

~~(b)~~(d) In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after May 7, 1981, the permit may be issued only after the prisoner has served not less than ten (10) years consecutively on each life sentence; provided, in the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after June 30, 1995, the permit may be issued only after the prisoner has served not less than fifteen (15) years consecutively on each life sentence. In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years consecutively on each life sentence. In the case of a prisoner sentenced consecutively to more than one life term for crimes, including **first- or second-degree** murder, occurring after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty-five (25) years consecutively on each life sentence.

SECTION 2. This act shall take effect upon passage.

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EXHIBIT

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(p) *Federal Financing Opportunities.* The ~~Executive Office~~ **executive office** proposes to review Medicaid requirements and opportunities under the U.S. Patient Protection and Affordable Care Act of 2010 (PPACA) and various other recently enacted federal laws and pursue any changes in the Rhode Island Medicaid program that promote service quality, access and cost-effectiveness that may warrant a Medicaid state plan amendment or amendment under the terms and conditions of Rhode Island's section 1115 waiver, its successor, or any extension thereof. Any such actions by the ~~Executive Office~~ **executive office** shall not have an adverse impact on beneficiaries or cause there to be an increase in expenditures beyond the amount appropriated for state fiscal year 2022.

Now, therefore, be it

RESOLVED, the ~~General Assembly~~ **general assembly** hereby approves the proposals stated in (a) through (p) above; and be it further;

RESOLVED, the ~~Secretary of the Executive Office~~ **secretary of the executive office** is authorized to pursue and implement any 1115 demonstration waiver amendments, Medicaid state plan amendments, and/or changes to the applicable department's rules, regulations and procedures approved herein and as authorized by ~~Chapter~~ **chapter** 42-12.4; and be it further;

RESOLVED, that this ~~Joint Resolution~~ **joint resolution** shall take effect upon passage.

SECTION 10. This article shall take effect as of July 1, 2021.

ARTICLE 13 AS AMENDED
RELATING TO HUMAN SERVICES

SECTION 1. Section 12-19-14 of the General Laws in Chapter 12-19 entitled "Sentence and Execution" is hereby amended to read as follows:

12-19-14. Violation of terms of probation – Notice to court – Revocation or continuation of suspension.

(a) Whenever any person who has been placed on probation by virtue of the suspension of execution of his or her sentence pursuant to § 12-19-13 violates the terms and conditions of his or her probation as fixed by the court by being formally charged with committing a new criminal offense, the police or department of corrections division of rehabilitative services shall cause the defendant to appear before the court. The department of corrections division of rehabilitative services shall determine when a technical violation of the terms and conditions of probation as fixed by the court that does not constitute a new criminal offense has occurred and shall cause the defendant to appear before the court. For technical violations, the ~~The~~ division of rehabilitative services shall promptly render a written report relative to the conduct of the defendant, including, as applicable, a description of the clear and articulable public safety risk posed by a defendant accused of a technical violation, and, as available, the information contained in any report under § 12-13-24.1. The division of rehabilitative services may recommend that the time served up to that point is a sufficient response to a violation that is not a new, alleged crime. The court may order the defendant held without bail for a period not exceeding ten (10) days excluding Saturdays, Sundays, and holidays if the new criminal charge(s) constitutes a violent crime

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as defined in the Rhode Island General Laws, a domestic violence crime, or a crime involving driving under the influence or if the court determines in its discretion that public safety concerns and/or concerns regarding the defendant's likelihood to appear before the court warrant holding the defendant without bail.

(b) The court shall conduct a hearing within thirty (30) days of arrest, unless waived by the defendant, to determine whether the defendant has violated the terms and conditions of his or her probation, at which hearing the defendant shall have the opportunity to be present and to respond. Upon a determination by a fair preponderance of the evidence that the defendant has violated the terms and conditions of his or her probation, the court, in open court and in the presence of the defendant, may as to the court may seem just and proper:

(1) Revoke the suspension and order the defendant committed on the sentence previously imposed, or on a lesser sentence;

(2) Impose a sentence if one has not been previously imposed;

(3) Stay all or a portion of the sentence imposed after removal of the suspension;

(4) Continue the suspension of a sentence previously imposed; or

(5) Convert a sentence of probation without incarceration to a suspended sentence.

SECTION 2. Chapter 13-8 of the General Laws entitled "Parole" is hereby amended by adding thereto the following section:

13-8-14.2. Special parole consideration for persons convicted as juveniles.

(a) When a person who is serving a sentence imposed as the result of an offense or offenses committed when he or she was less than eighteen years of age becomes eligible for parole pursuant to applicable provisions of law, the parole board shall ensure that he or she is provided a meaningful opportunity to obtain release and shall adopt rules and guidelines to do so, consistent with existing law.

(b) During a parole hearing involving a person described in subsection (a) of this section, in addition to other factors required by law or under the parole guidelines set forth by the parole board, the parole board shall also take into consideration the diminished culpability of juveniles as compared to that of adults and any subsequent growth and increased maturity of the prisoner during incarceration. The board shall also consider the following:

(1) A review of educational and court documents;

(2) Participation in available rehabilitative and educational programs while in prison;

(3) Age at the time of the offense;

(4) Immaturity at the time of the offense;

(5) Home and community environment at the time of the offense;

(6) Efforts made toward rehabilitation;

(7) Evidence of remorse; and

(8) Any other factors or circumstances the ~~Board~~ **board** considers relevant.

(c) The parole board shall have access to all relevant records and information in the possession of any state official or agency relating to the board's consideration of the factors detailed in the foregoing sections.

SECTION 3. Sections 13-8-11, 13-8-13, 13-8-18 and 13-8-18.1 of the General Laws in Chapter 13-8 entitled "Parole" are hereby amended to read as follows:

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d as follows:

13-8-11. ~~Good conduct, industrial, and meritorious service time included in computation~~ Good conduct, industrial, and meritorious service time.

(a) In computing the one-third (1/3) of any term of sentence for the purpose of §§ 13-8-9 – 13-8-14, the time a prisoner shall have earned pursuant to §§ 42-56-24 and 42-56-26 shall be considered by the parole board to reduce inmate overcrowding when directed by the criminal justice oversight committee, pursuant to the provisions of § 42-26-13.3(e), or when directed by the governor~~,~~ pursuant to the provisions of § 42-26-13.3(f).

(b) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

~~(i)~~ **(1)** "Compliance," the absence of a finding by a ~~Parole Officer~~ **parole officer** or the ~~Parole Board~~ **parole board** of a violation of the terms or conditions of a permit or conditions of parole supervision set by the Rhode Island ~~Parole Board~~ **parole board.**

~~(ii)~~ **(2)** "Compliance credits," credits that an eligible offender earns through compliance with ~~Parole Board~~ **parole board**-ordered conditions of parole supervision; provided, however, that ~~such~~ **the** credits shall operate to reduce the length of parole supervision.

~~(iii)~~ **(3)** "Eligible parolee," any offender who is currently serving a term of post-incarceration parole supervision except any such person serving a sentence of a violation of §§ 11-5-1 (where the specified felony is murder or sexual assault), § 11-23-1, § 11-26-1.4, § 11-37-2, § **11-37-8.1, or § 11-37-8.3.**

(c) On the first day of each calendar month after July 1, 2021, an eligible parolee shall earn ~~five~~ **5 (5) days of compliance credits if the eligible parolee served on parole without any** documented behavior that could constitute a violation of the terms and conditions of parole for the prior calendar month. Any compliance credits so granted and not rescinded pursuant to guidelines set forth by the parole board shall reduce the period of time that a parolee is subject to the jurisdiction of the parole board under § 13-8-9.

(d) The parole board shall issue guidelines governing the awarding of compliance credits~~,~~; any disqualifiers to the earning of compliance credits~~,~~; and the rescission or suspension of compliance credits as applicable.

(e) The award or rescission of credits pursuant to this section shall not be the subject of judicial review.

(f) This section shall apply to all individuals sentenced to imprisonment and subsequently granted parole including those sentences granted prior to passage of this legislation and shall not alter the ability of the ~~Parole Board~~ **parole board** to revoke parole. The calculation of compliance credits shall be prospective from the date of passage, while eligibility to earn compliance credits shall be prospective and retrospective.

(g) The department of corrections shall keep a record of the eligible parolee's sentence, including the person's end of supervision date based on earned credits for compliance with the terms and conditions of parole.

13-8-13. Life prisoners and prisoners with lengthy sentences.

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(a) In the case of a prisoner sentenced to imprisonment for life, a parole permit may be issued at any time after the prisoner has served not less than ten (10) years imprisonment; provided that:

(1) In the case of a prisoner serving a sentence or sentences of a length making him or her ineligible for a permit in less than ten (10) years, pursuant to §§ 13-8-9 and 13-8-10, the permit may be issued at any time after the prisoner has served not less than ten (10) years' imprisonment.;

(2) In the case of a prisoner sentenced to imprisonment for life for a first- or second-degree murder committed after July 10, 1989, the permit may be issued only after the prisoner has served not less than fifteen (15) years' imprisonment.;

(3) In the case of a prisoner sentenced to imprisonment for life for a first- or second-degree murder committed after June 30, 1995, the permit may be issued only after the prisoner has served not less than twenty (20) years' imprisonment; and

(4) In the case of a prisoner sentenced to imprisonment for life for a first- or second-degree murder committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty-five (25) years' imprisonment.; and

(5) In the case of a prisoner sentenced to imprisonment for life for a crime, other than first- or second-degree murder, committed after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years' imprisonment.

(b) The permit shall be issued only by a unanimous vote of all the attending members of the board; provided that not less than four (4) members are present, and whenever, after the issue of the permit, the prisoner shall be pardoned, then the control of the board over the prisoner shall cease and terminate.

(c)(1) In the case of a prisoner sentenced to imprisonment for life who is convicted of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than twenty-five (25) years' imprisonment; provided, however, that as to a prisoner who has been sentenced to imprisonment for life for a conviction of first- or second-degree murder, committed after July 1, 2015, and who is convicted thereafter of escape or attempted escape from the lawful custody of the warden of the adult correctional institutions, the permit may be issued only after the prisoner has served not less than thirty-five (35) years' imprisonment; and

(2) For each subsequent conviction of escape or attempted escape, an additional five (5) years shall be added to the time required to be served.

(d) In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after May 7, 1981, the permit may be issued only after the prisoner has served not less than ten (10) years consecutively on each life sentence; provided, in the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after June 30, 1995, the permit may be issued only after the prisoner has served not less than fifteen (15) years consecutively on each life sentence. In the case of a prisoner sentenced consecutively to more than one life term for crimes occurring after July 1, 2015, the permit may be issued only after the prisoner has served not less than twenty (20) years consecutively on each life sentence. In the case of a prisoner sentenced consecutively to more than one life term for crimes, including first- or second-degree murder, occurring after July 1, 2015, the permit may be issued only after

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(e) Any person sentenced for any offense committed prior to his or her twenty-second birthday, other than a person serving life without parole, shall be eligible for parole review and a parole permit may be issued after the person has served no fewer than twenty (20) years' imprisonment unless the person is entitled to earlier parole eligibility pursuant to any other provisions of law. This subsection shall be given prospective and retroactive effect for all offenses occurring on or after January 1, 1991.

13-8-18. Revocation of parole – Hearing.

The parole board may, by a majority vote of all of its members, revoke, in accordance with the provisions of § 13-8-18.1, any permit issued by it to any prisoner under the provisions of this chapter or revoke any permit issued by another state or jurisdiction where the prisoner is being supervised by the Rhode Island parole board whenever it shall appear to the board that the prisoner has violated any of the terms or conditions of his or her permit or conditions of parole set by an out-of-state jurisdiction, or has during the period of his or her parole violated any state laws. Whenever it shall come to the knowledge of the board that any prisoner at liberty under a permit issued by this state or another state or jurisdiction has been guilty of a violation of parole related to a new criminal charge, the chairperson shall issue his or her warrant to any officer authorized to serve criminal process to arrest the prisoner and commit him or her to the adult correctional institutions, to be detained until the board shall have an opportunity to determine whether the permit of the prisoner is to be revoked in accordance with the provisions of § 13-8-18.1, or in the case of prisoners granted parole by another state or jurisdiction, and supervised by the Rhode Island parole board, until that state or jurisdiction takes custody of the prisoner. Whenever it shall come to the knowledge of the board that any prisoner at liberty under a permit issued by this state or another state or jurisdiction has been guilty of a technical violation of parole, absent a new criminal charge, the chairperson may, at his or her discretion, issue his or her warrant to any officer authorized to serve criminal process to arrest the prisoner and commit him or her to the adult correctional institutions, to be detained until the board shall have an opportunity to determine whether the permit of the prisoner is to be revoked in accordance with the provisions of § 13-8-18.1, or in the case of prisoners granted parole by another state or jurisdiction, and supervised by the Rhode Island parole board, until that state or jurisdiction takes custody of the prisoner. If the board shall determine that the permit shall not be revoked, then the board shall immediately order the prisoner to be set at liberty under the terms and conditions of his or her original permit.

13-8-18.1. Preliminary parole violation hearing.

(a) As soon as is practicable after a detention for an alleged violation of parole, the parole board shall afford the alleged parole violator a preliminary parole revocation hearing before a hearing officer designated by the board. ~~Such~~ **The** hearing officer shall not have had any prior supervisory involvement over the alleged violator.

(b) The alleged violator shall, within five (5) days of the detention, in Rhode Island be given written notice of the time, place, and purpose of the preliminary hearing. The notice shall state the specific conditions of parole that are alleged to have been

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violated and in what manner. The notice shall also inform the alleged violator of the following rights in connection with the preliminary hearing:

(1) The right to appear and speak in ~~his/her~~ **his or her** own behalf;

(2) The right to call witnesses and present evidence;

(3) The right to confront and cross-examine the witnesses against ~~him/her~~ **him or her**, unless the hearing officer finds on the record that a witness may be subjected to risk of harm if his or her identity is revealed; and

(4) The right to retain counsel and, if unable to afford counsel, the right under certain circumstances to the appointment of counsel for the preliminary hearing.

The determination of whether or not the alleged violator is entitled to appointed counsel, if such a request is made, shall be made on the record and in accordance with all relevant statutory and constitutional provisions.

(c) The notice form must explain in clear and unambiguous language the procedures established by the parole board concerning an alleged violator's exercise of the rights denominated in subsection (b), including the mechanism for compelling the attendance of witnesses~~,~~; the mechanism for obtaining documentary evidence~~,~~; and the mechanism for requesting the appointment of counsel.

(d) The preliminary hearing shall take place no later than ten (10) days after service of notice set forth in subsection (b). A preliminary hearing may be postponed beyond the ten ~~(10)~~ day **(10)** time limit for good cause at the request of either party, but may not be postponed at the request of the state for more than five (5) additional days. The parole revocation charges shall be dismissed with prejudice if a preliminary hearing is not conducted within the time period established by this paragraph, not including any delay directly attributed to a postponement requested by the alleged violator.

(e) If the alleged violator has requested the appointment of counsel at least five (5) days prior to the preliminary hearing, the preliminary hearing may not proceed without counsel present unless the hearing officer finds on the record, in accordance with all relevant statutory and constitutional provisions, that the alleged violator is not entitled to appointed counsel. If the alleged violator is found to have been entitled to counsel and no such counsel has been appointed, the parole violation charges must be dismissed with prejudice. If the request for counsel was made four (4) or fewer days in advance of the preliminary hearing, the time limit within which the preliminary hearing must be held may be extended up to five (5) additional days.

(f) The standard of proof at the preliminary hearing shall be probable cause to believe that the alleged violator has violated one or more conditions of his or her parole and that the violation or violations were not de minimus in nature. Proof of conviction of a crime committed subsequent to release on parole shall constitute probable cause for the purposes of the preliminary hearing.

(g) At the preliminary hearing, the hearing officer shall review the violation charges with the alleged violator~~,~~; direct the presentation of the evidence concerning the alleged violation~~,~~; receive the statements of the witnesses and documentary evidence~~,~~; and allow cross-examination of those witnesses in attendance. All proceedings shall be recorded and preserved.

(h) At the conclusion of the preliminary hearing, the hearing officer shall inform the alleged violator of his or her decision as to whether there is probable cause to

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believe that the alleged violator has violated one or more conditions of his or her parole and, if so, whether the violation or violations were de minimus in nature. Those determinations shall be based solely on the evidence adduced at the preliminary hearing. The hearing officer shall state in writing the reasons for his or her determinations and the evidence relied upon for those determinations. A copy of the written findings shall be sent to the alleged violator, and his or her counsel if applicable, within fourteen (14) days of the preliminary hearing.

(i) If the hearing officer finds that there is no probable cause to believe that the alleged violator has violated one or more conditions of his or her parole or that the violation or violations, if any, were de minimus in nature, the parole chairperson shall rescind the detention warrant and direct that the alleged violator, unless in custody for other reasons, be released and restored to parole supervision.

(j) If the hearing officer finds that there is probable cause to believe that the alleged violator has violated one or more conditions of his or her parole and that the violation or violations were not de minimus in nature, the alleged violator shall be held for a final parole revocation hearing. A final parole revocation hearing must be held as soon as is practicable, but in no event more than ninety (90) days after the conclusion of the preliminary hearing.

(k) An alleged violator may waive his or her right to a preliminary hearing. ~~Such a~~ **The** waiver must be in written form. In the event of such a written waiver, a final parole revocation hearing must be held as soon as is practicable, but in no event more than ninety (90) days after the right to a preliminary hearing is waived. Notwithstanding the above, a final parole revocation hearing may be continued by the alleged violator beyond the ninety~~-(90)~~ day (90) time period. For parole violations not involving a new criminal offense, an alleged violator may waive his or her right to a final parole revocation hearing, where there is no dispute as to the alleged violation and the parolee charged with ~~such~~ **the** violation(s) freely admits to the violation and accepts the appropriate sanction imposed by the parole board.

SECTION 4. Sections 13-8.1-1, 13-8.1-2, 13-8.1-3 and 13-8.1-4 of the General Laws in Chapter 13-8.1 entitled "Medical Parole" are hereby amended to read as follows:

13-8.1-1. Short title.

This chapter shall be known as the "Medical and Geriatric Parole Act".

13-8.1-2. Purpose.

(a) Medical parole is made available for humanitarian reasons and to alleviate exorbitant medical expenses associated with inmates whose chronic and incurable illness render their incarceration non-punitive and non-rehabilitative. Notwithstanding other statutory or administrative provisions to the contrary, all prisoners, except those serving life without parole, shall at any time after they begin serving their sentences be eligible for medical parole consideration, regardless of the crime committed or the sentence imposed.

(b) Geriatric parole is made available for humanitarian reasons and to alleviate exorbitant expenses associated with the cost of aging, for inmates whose advanced age reduces the risk that they pose to the public safety. Notwithstanding other statutory or administrative provisions to the contrary, all prisoners except those serving life without parole shall be eligible for geriatric parole consideration upon meeting

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the criteria set forth below, regardless of the crime committed or the sentence imposed.

13-8.1-3. Definitions.

~~(a)~~ (3) "Permanently physically incapacitated" means suffering from a physical condition caused by injury, disease, illness, ~~or cognitive insult such as dementia~~ or persistent vegetative state, ~~which~~ **that**, to a reasonable degree of medical certainty, permanently and irreversibly physically incapacitates the individual to the extent that the individual needs help with most of the activities that are necessary for independence, such as feeding, toileting, dressing, and bathing and transferring, or no significant physical activity is possible, ~~and the individual is confined to bed or a wheelchair~~ or suffering from an incurable, progressive condition that substantially diminishes the individual's capacity to function in a correctional setting.

~~(b)~~ (2) "Cognitively incapacitated" means suffering from a cognitive condition, such as dementia, ~~which~~ **that** greatly impairs activities that are necessary for independence such as feeding, toileting, dressing, and bathing and renders their incarceration non-punitive and non-rehabilitative.

~~(b)~~ ~~(c)~~ (5) "Terminally ill" means suffering from a condition caused by injury (except self-inflicted injury), disease, or illness which, to a reasonable degree of medical certainty, is a life-limiting diagnosis that will lead to profound functional, cognitive and/or physical decline, and likely will result in death within eighteen (18) months.

~~(c)~~ ~~(d)~~ (4) "Severely ill" means suffering from a significant and permanent or chronic physical and/or mental condition that: (1) Requires extensive medical and/or psychiatric treatment with little to no possibility of recovery; and (2) ~~Precludes significant~~ Significantly impairs rehabilitation from further incarceration.

~~(e)~~ (1) "Aging prisoner" means an individual who is sixty-five (65) years of age or older and suffers from functional impairment, infirmity, or illness.

13-8.1-4. Procedure.

(a) The parole board is authorized to grant medical parole release of a prisoner, except a prisoner serving life without parole, at any time, who is determined to be terminally ill, severely ill, or permanently physically or cognitively incapacitated within the meaning of §§ 13-8.1-3~~(a) – (d)~~(2)-(5). ~~Inmates who are severely ill will only be considered for such release when their treatment causes the state to incur exorbitant expenses as a result of continued and frequent medical treatment during their incarceration, as determined by the office of financial resources of the department of corrections.~~

(b) The parole board is authorized to grant geriatric parole release of a prisoner, except a prisoner serving life without parole, who is an aging prisoner within the meaning of § 13-8.1-3~~(e)~~(1) or under medical parole as outlined by § 13-8.1-2.

~~(b)~~ (c) In order to apply for this relief, the prisoner or his or her family member or friend, with an attending physician's written approval, or an attending physician, on behalf of the prisoner, shall file an application with the director of the department of corrections. Within seventy-two (72) hours after the filing of any application, the director shall refer the application to the health service unit of the department of corrections for a medical report and a medical or geriatric discharge plan to be completed within ten (10) days. Upon receipt of the ~~medical~~ discharge plan, the director of the

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department of corrections shall immediately transfer the ~~medical~~ discharge plan, together with the application, to the parole board for its consideration and decision.

~~(c)~~ (d) The report shall contain, at a minimum, the following information:

(1) Diagnosis of the prisoner's medical conditions, including related medical history;

(2) Detailed description of the conditions and treatments;

(3) Prognosis, including life expectancy, likelihood of recovery, likelihood of improvement, mobility and trajectory, and rate of debilitation; .

(4) Degree of incapacity or disability, including an assessment of whether the prisoner is ambulatory, capable of engaging in any substantial physical activity, ability to independently provide for their daily life activities, and the extent of that activity; and

(5) An opinion from the medical director as to whether the person is terminally ill, and if so, the stage of the illness, or whether the person is permanently physically or cognitively incapacitated, ~~or~~ severely ill, or an aging prisoner. If the medical director's opinion is that the person is not terminally ill, permanently, physically or cognitively incapacitated, ~~or~~ severely ill, or an aging prisoner as defined in § 13-8.1-3, the petition for medical or geriatric parole shall not be forwarded to the parole board.

~~(6) In the case of a severely ill inmate, the report shall also contain a determination from the office of financial resources that the inmate's illness causes the state to incur exorbitant expenses as a result of continued and frequent medical treatment during incarceration.~~

~~(d)~~(e) When the director of corrections refers a prisoner to the parole board for medical or geriatric parole, the director shall provide to the parole board a medical or geriatric discharge plan that is acceptable to the parole board.

~~(e)~~ (f) The department of corrections and the parole board shall jointly develop standards for the medical or geriatric discharge plan that are appropriately adapted to the criminal justice setting. The discharge plan should ensure at the minimum that:

(1) An appropriate placement for the prisoner has been secured, including, but not limited to: a hospital, nursing facility, hospice, or family home;

(2) A referral has been made for the prisoner to secure a source for payment of the prisoner's medical expenses; and

(3) A parole officer has been assigned to periodically obtain updates on the prisoner's medical condition to report back to the board.

~~(f)~~(g) If the parole board finds from the credible medical evidence that the prisoner is terminally ill, permanently physically or cognitively incapacitated, ~~or~~ severely ill, or an aging prisoner, the board shall grant release to the prisoner but only after the board also considers whether, in light of the prisoner's medical condition, there is a reasonable probability that the prisoner, if released, will live and remain at liberty without violating the law, and that the release is compatible with the welfare of society and will not so depreciate the seriousness of the crime as to undermine respect for the law. Notwithstanding any other provision of law, medical or geriatric release may be granted ~~an~~ at any time during the term of a prisoner's sentence.

~~(g)~~(h) There shall be a presumption that the opinion of the physician and/or medical director will be accepted. However, the applicant, the physician, the director, or the parole board may request an independent medical evaluation within seven (7)

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days after the physician's and/or medical director's report is presented. The evaluation shall be completed and a report, containing the information required by subsection ~~(b)(c)~~ (d) of this section, filed with the director and the parole board, and a copy sent to the applicant within fourteen (14) days from the date of the request.

~~(h)~~(i) Within seven (7) days of receiving the application, the medical or geriatric report and the discharge plan, the parole board shall determine whether the application, on its face, demonstrates that relief may be warranted. If the face of the application clearly demonstrates that relief is unwarranted, the board may deny the application without a hearing or further proceedings, and within seven (7) days shall notify the prisoner in writing of its decision to deny the application, setting forth its factual findings and a brief statement of the reasons for denying release without a hearing. Denial of release does not preclude the prisoner from reapplying for medical or geriatric parole after the expiration of sixty (60) days. A reapplication under this section must demonstrate a material change in circumstances.

~~(i)~~(j)(1) Upon receipt of the application from the director of the department of corrections the parole board shall, except as provided in subsection ~~(h)~~(i) of this section, set the case for a hearing within thirty (30) days;

(2) Notice of the hearing shall be sent to the prosecutor and the victim(s), if any, of the offense(s) for which the prisoner is incarcerated, and the prosecutor and the victim(s) shall have the right to be heard at the hearing, or in writing, or both; **and**

(3) At the hearing, the prisoner shall be entitled to be represented by an attorney or by the public defender if qualified or other representative.

~~(j)~~(k) Within seven (7) days of the hearing, the parole board shall issue a written decision granting or denying medical or geriatric parole and explaining the reasons for the decision. If the board determines that medical or geriatric parole is warranted, it shall impose conditions of release, that shall include the following:

(1) Periodic medical examinations;

(2) Periodic reporting to a parole officer, and the reporting interval;

(3) Any other terms or conditions that the board deems necessary; and

(4) In the case of a prisoner who is medically paroled due to being severely ill, the parole board shall require electronic monitoring as a condition of the medical parole, unless the ~~health care~~ **healthcare** plan mandates placement in a medical facility that cannot accommodate the electronic monitoring.

~~(k)~~(l) If after release the releasee's condition or circumstances change so that he or she would not then be eligible for medical or geriatric parole, the parole board may order him or her returned to custody to await a hearing to determine whether his or her release should be revoked. A release may also be revoked for violation of conditions otherwise applicable to parole.

~~(l)~~(m) An annual report shall be prepared by the director of corrections for the parole board and the general assembly. The report shall include:

(1) The number of inmates who have applied for medical or geriatric parole;

(2) The number of inmates who have been granted medical or geriatric parole;

(3) The nature of the illness, cognitive condition, functional impairment, and/or ~~medical~~ infirmity of the applicants, and the nature of the placement pursuant to the discharge plan;

(4) The categories of reasons for denial for those who have been denied;

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(5) The number of releasees on medical or geriatric parole who have been returned to the custody of the department of corrections and the reasons for return; and

(6) The number of inmates who meet the statutory definition of "aging prisoner" and would be potentially-eligible for geriatric parole.

(n) An annual educational seminar will be offered by the department of corrections healthcare services unit to the parole board and community stakeholders on aging and infirmity in prison and special considerations that should be applied to aging prisoners and prisoners with severe or terminal illnesses during parole consideration.

SECTION 5. Section 14-1-6 of the General Laws in Chapter 14-1 entitled "Proceedings in Family Court" is hereby amended to read as follows:

14-1-6. Retention of jurisdiction.

(a) When the court shall have obtained jurisdiction over any child prior to the child having attained the age of eighteen (18) years by the filing of a petition alleging that the child is wayward or delinquent pursuant to § 14-1-5, the child shall, except as specifically provided in this chapter, continue under the jurisdiction of the court until he or she becomes nineteen (19) years of age, unless discharged prior to turning nineteen (19).

(b) When the court shall have obtained jurisdiction over any child prior to the child's eighteenth (18th) birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent, neglected, or abused pursuant to §§ 14-1-5 and 40-11-7 or 42-72-14, the child shall, except as specifically provided in this chapter, continue under the jurisdiction of the court until he or she becomes eighteen (18) years of age; provided, that at least six (6) months prior to a child turning eighteen (18) years of age, the court shall require the department of children, youth and families to provide a description of the transition services including the child's housing, health insurance, education and/or employment plan; available mentors and continuing support services, including workforce supports and employment services afforded the child in placement; or a detailed explanation as to the reason those services were not offered. As part of the transition planning, the child shall be informed by the department of the opportunity to voluntarily agree to extended care and placement by the department and legal supervision by the court until age twenty-one (21). The details of a child's transition plan shall be developed in consultation with the child, wherever possible, and approved by the court prior to the dismissal of an abuse, neglect, dependency, or miscellaneous petition before the child's twenty-first birthday.

(c) A child, who is in foster care on their eighteenth birthday due to the filing of a miscellaneous petition or a petition alleging that the child is dependent, neglected, or abused pursuant to §§ 14-1-5, § 40-11-7, or § 42-72-14, may voluntarily elect to continue responsibility for care and placement from DCYF and to remain under the legal supervision of the court as a young adult until age twenty-one (21), provided:

(1) The young adult was in the legal custody of the department at age eighteen (18); and

(2) The young adult is participating in at least one of the following:

(i) Completing the requirements to receive a high school diploma or GED;

(ii) Completing a secondary education or a program leading to an equivalent credential; enrolled in an institution that provides postsecondary or vocational education;

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(iii) Participating in a job-training program or an activity designed to promote or remove barriers to employment;

(iv) Be employed for at least eighty (80) hours per month; or

(v) Incapable of doing any of the foregoing due to a medical condition that is regularly updated and documented in the case plan.

(d) A former foster child who was adopted or placed in guardianship with an adoption assistance agreement or a guardianship assistance agreement that was executed on or after his or her sixteenth birthday and prior to his or her eighteenth birthday may voluntarily agree to extended care and placement by the department and legal supervision by the court until age twenty-one (21) if the young adult satisfies the requirements in subsection (c)(2). Provided, however, the department retains the right to review the request and first attempt to address the issues through the adoption assistance agreement by providing post adoptive or post guardianship support services to the young adult and his or her adoptive or guardianship family.

(e) Upon the request of the young adult, who voluntarily agreed to the extension of care and placement by the department and legal supervision by the court, pursuant to subsections (c) and (d) of this section, the court's legal supervision and the department's responsibility for care and placement may be terminated. Provided, however, the young adult may request reinstatement of responsibility and resumption of the court's legal supervision at any time prior to his or her twenty-first birthday if the young adult meets the requirements set forth in subsection (c)(2). If the department wishes to terminate the court's legal supervision and its responsibility for care and placement, it may file a motion for good cause. The court may exercise its discretion to terminate legal supervision over the young adult at any time.

(f) With the consent of the person previously under the court's supervision, the court may reopen, extend, or retain its jurisdiction beyond that ~~persons'~~ **person's** twenty-first birthday until his or her twenty-second birthday or until September 30, 2021, whichever date occurs first, under the following circumstances:

(1) The person aged out of DCYF care or left foster care during the COVID-19 public health emergency, defined as beginning on January 27, 2020, and is entitled to extended benefits pursuant to the terms of the Consolidated Appropriations Act of 2021, Pub. L. No. 116-260; and

(i) The court has or had obtained jurisdiction over the person prior to his or her eighteenth birthday by the filing of a miscellaneous petition or a petition alleging that the child is dependent, abused, or neglected pursuant to § 14-1-5, § 40-11-7 or § 42-72-14 or after the person's eighteenth birthday pursuant to a ~~Voluntary Extension of Care~~ **voluntary extension of care** petition; and

(ii) Court supervision is necessary for the department of children, youth and families to access IV-E funding to support such benefits, in whole or in part; and

(iii) Court supervision is required to continue transition planning and to ensure the safety, permanency, and well-being of older youth who remain in or who age out of foster care and re-enter foster care.

~~(f)~~(g) The court may retain jurisdiction of any child who is seriously emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v) until that child turns age twenty-one (21) when the court shall have obtained jurisdiction over any child prior to the child's eighteenth birthday by the filing of a miscellaneous petition

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~~(g)~~(h) The department of children, youth and families shall work collaboratively with the department of behavioral healthcare, developmental disabilities and hospitals, and other agencies, in accordance with § 14-1-59, to provide the family court with a transition plan for those individuals who come under the court's jurisdiction pursuant to a petition alleging that the child is dependent, neglected, and/or abused and who are seriously emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v). This plan shall be a joint plan presented to the court by the department of children, youth and families and the department of behavioral healthcare, developmental disabilities and hospitals. The plan shall include the behavioral healthcare, developmental disabilities and hospitals' community or residential service level, health insurance option, education plan, available mentors, continuing support services, workforce supports and employment services, and the plan shall be provided to the court at least twelve (12) months prior to discharge. At least three (3) months prior to discharge, the plan shall identify the specific placement for the child, if a residential placement is needed. The court shall monitor the transition plan. In the instance where the department of behavioral healthcare, developmental disabilities and hospitals has not made timely referrals to appropriate placements and services, the department of children, youth and families may initiate referrals.

~~(h)~~(i) The parent and/or guardian and/or guardian ad litem of a child who is seriously emotionally disturbed or developmentally delayed pursuant to § 42-72-5(b)(24)(v), and who is before the court pursuant to §§ 14-1-5(1)(iii) through 14-1-5(1)(v), 40-11-7 or 42-72-14, shall be entitled to a transition hearing, as needed, when the child reaches the age of twenty (20) if no appropriate transition plan has been submitted to the court by the department of children, youth and families and the department of behavioral healthcare, developmental disabilities and hospitals. The family court shall require that the department of behavioral healthcare, developmental disabilities and hospitals shall immediately identify a liaison to work with the department of children, youth and families until the child reaches the age of twenty-one (21) and an immediate transition plan be submitted if the following facts are found:

(1) No suitable transition plan has been presented to the court addressing the levels of service appropriate to meet the needs of the child as identified by the department of behavioral healthcare, developmental disabilities and hospitals; or

(2) No suitable housing options, health insurance, educational plan, available mentors, continuing support services, workforce supports, and employment services have been identified for the child.

~~(i)~~(j) In any case where the court shall not have acquired jurisdiction over any person prior to the person's eighteenth (18th) birthday by the filing of a petition alleging that the person had committed an offense, but a petition alleging that the person had committed an offense that would be punishable as a felony if committed by an adult has been filed before that person attains the age of nineteen (19) years of age, that person shall, except as specifically provided in this chapter, be subject to the jurisdiction of the court until he or she becomes nineteen (19) years of age, unless discharged prior to turning nineteen (19).

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~~(j)~~(k) In any case where the court shall not have acquired jurisdiction over any person prior to the person attaining the age of nineteen (19) years by the filing of a petition alleging that the person had committed an offense prior to the person attaining the age of eighteen (18) years that would be punishable as a felony if committed by an adult, that person shall be referred to the court that had jurisdiction over the offense if it had been committed by an adult. The court shall have jurisdiction to try that person for the offense committed prior to the person attaining the age of eighteen (18) years and, upon conviction, may impose a sentence not exceeding the maximum penalty provided for the conviction of that offense.

~~(k)~~(l) In any case where the court has certified and adjudicated a child in accordance with the provisions of §§ 14-1-7.2 and 14-1-7.3, the jurisdiction of the court shall encompass the power and authority to sentence the child to a period in excess of the age of nineteen (19) years. However, in no case shall the sentence be in excess of the maximum penalty provided by statute for the conviction of the offense.

~~(l)~~(m) Nothing in this section shall be construed to affect the jurisdiction of other courts over offenses committed by any person after he or she reaches the age of eighteen (18) years.

SECTION 6. Sections 40-5.2-8, 40-5.2-108, 40-5.2-11, 40-5.2-20 and 40-5.2-33 of the General Laws in Chapter 40-5.2 entitled "The Rhode Island Works Program" are hereby amended to read as follows:

40-5.2-8. Definitions.

As used in this chapter, the following terms having the meanings set forth herein, unless the context in which such terms are used clearly indicates to the contrary:

(1) "Applicant" means a person who has filed a written application for assistance for ~~herself/himself~~ **herself or himself** and ~~her/his~~ **her or his** dependent child(ren). An applicant may be a parent or non-parent caretaker relative.

(2) "Assistance" means cash and any other benefits provided pursuant to this chapter.

(3) "Assistance unit" means the assistance-filing unit consisting of the group of persons, including the dependent child(ren), living together in a single household who must be included in the application for assistance and in the assistance payment if eligibility is established. An assistance unit may be the same as a family.

(4) "Benefits" shall mean assistance received pursuant to this chapter.

(5) "Community service programs" means structured programs and activities in which cash assistance recipients perform work for the direct benefit of the community under the auspices of public or nonprofit organizations. Community service programs are designed to improve the employability of recipients not otherwise able to obtain paid employment.

(6) "Department" means the department of human services.

(7) "Dependent child" means an individual, other than an individual with respect to whom foster care maintenance payments are made, who is: ~~(A) under~~ **(i) Under** the age of eighteen (18); or ~~(B) under~~ **(ii) Under** the age of nineteen (19) and a full-time student in a secondary school (or in the equivalent level of vocational or educational training)~~, if before he or she attains age nineteen (19), he or she may reasonably be expected to complete the program of such secondary school (or such training)~~.

(8) "Director" means the director of the department of human services.

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(9) "Earned income" means income in cash or the equivalent received by a person through the receipt of wages, salary, commissions, or profit from activities in which the person is self-employed or as an employee and before any deductions for taxes.

(10) "Earned income tax credit" means the credit against federal personal income tax liability under § 32 of the Internal Revenue Code of 1986, 26 U.S.C. § 32, or any successor section, the advanced payment of the earned income tax credit to an employee under § 3507 of the code, 26 U.S.C. § 3507 [repealed], or any successor section and any refund received as a result of the earned income tax credit, as well as any refundable state earned income tax credit.

(11) "Education directly related to employment" means education, in the case of a participant who has not received a high school diploma or a certificate of high school equivalency, related to a specific occupation, job, or job offer.

(12) "Family" means: ~~(A) a~~ **(i) A** pregnant woman from and including the seventh month of her pregnancy; or ~~(B) a~~ **(ii) A** child and the following eligible persons living in the same household as the child: ~~(C) each~~ **(iii) Each** biological, adoptive or step-parent of the child, or in the absence of a parent, any adult relative who is responsible, in fact, for the care of such child; and ~~(D) the~~ **(iv) The** child's minor siblings (whether of the whole or half blood); provided, however, that the term "family" shall not include any person receiving benefits under title XVI of the Social Security Act, 42 U.S.C. § 1381 et seq. A family may be the same as the assistance unit.

(13) "Gross earnings" means earnings from employment and self-employment further described in the department of human services rules and regulations.

(14) "Individual employment plan" means a written, individualized plan for employment developed jointly by the applicant and the department of human services that specifies the steps the participant shall take toward long-term economic independence developed in accordance with § 40-5.2-10(e). A participant must comply with the terms of the individual employment plan as a condition of eligibility in accordance with § 40-5.2-10(e).

(15) "Job search and job readiness" means the mandatory act of seeking or obtaining employment by the participant, or the preparation to seek or obtain employment.

In accord with federal requirements, job search activities must be supervised by the department of labor and training and must be reported to the department of human services in accordance with TANF work verification requirements.

Except in the context of rehabilitation employment plans, and special services provided by the department of children, youth and families, job-search and job-readiness activities are limited to four (4) consecutive weeks, or for a total of six (6) weeks in a twelve-month (12) period, with limited exceptions as defined by the department. The department of human services, in consultation with the department of labor and training, shall extend job-search, and job-readiness assistance for up to twelve (12) weeks in a fiscal year if a state has an unemployment rate at least fifty percent (50%) greater than the United States unemployment rate if the state meets the definition of a "needy state" under the contingency fund provisions of federal law.

Preparation to seek employment, or job readiness, may include, but may not be limited to~~,~~**:** the participant obtaining life-skills training~~,~~**;** homelessness services~~,~~**;** domestic violence services~~,~~**;** special services for families provided by the department of children**,** youth and families~~,~~**;** substance abuse treatment~~,~~**;** mental health treatment~~,~~**;**

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or rehabilitation activities as appropriate for those who are otherwise employable. The services, treatment, or therapy must be determined to be necessary and certified by a qualified medical or mental health professional. Intensive work-readiness services may include: work-based literacy~~,~~; numeracy~~,~~; hands-on training~~,~~; work experience~~,~~; and case management services. Nothing in this section shall be interpreted to mean that the department of labor and training shall be the sole provider of job-readiness activities described herein.

(16) "Job skills training directly related to employment" means training or education for job skills required by an employer to provide an individual with the ability to obtain employment or to advance or adapt to the changing demands of the workplace. Job skills training directly related to employment must be supervised on an ongoing basis.

(17) "Minor parent" means a parent under the age of eighteen (18). A minor parent may be an applicant or recipient with his or her dependent child(ren) in ~~his/her~~ his or her own case or a member of an assistance unit with his or her dependent child(ren) in a case established by the minor parent's parent.

(18) "Net income" means the total gross income of the assistance unit less allowable disregards and deductions as described in § 40-5.2-10(g).

(19) "On-the-job-training" means training in the public or private sector that is given to a paid employee while he or she is engaged in productive work and that provides knowledge and skills essential to the full and adequate performance of the job. On-the-job training must be supervised by an employer, work-site sponsor, or other designee of the department of human services on an ongoing basis.

(20) "Participant" means a person who has been found eligible for assistance in accordance with this chapter and who must comply with all requirements of this chapter, and has entered into an individual employment plan. A participant may be a parent or non-parent caretaker relative included in the cash assistance payment.

(21) "Recipient" means a person who has been found eligible and receives cash assistance in accordance with this chapter.

(22) "Relative" means a parent, stepparent, grandparent, great grandparent, great-great grandparent, aunt, great-aunt, great-great aunt, uncle, great-uncle, great-great uncle, sister, brother, stepbrother, stepsister, half-brother, half-sister, first cousin, first cousin once removed, niece, great-niece, great-great niece, nephew, great-nephew, or great-great nephew.

(23) "Resident" means a person who maintains residence by his or her continuous physical presence in the state.

(24) "Self-employment income" means the total profit from a business enterprise, farming, etc., resulting from a comparison of the gross receipts with the business expenses, i.e., expenses directly related to producing the goods or services and without which the goods or services could not be produced. However, items such as depreciation, personal business and entertainment expenses, and personal transportation are not considered business expenses for the purposes of determining eligibility for cash assistance in accordance with this chapter.

(25) "State" means the ~~State~~ state of Rhode Island ~~and Providence Plantations~~.

(26) "Subsidized employment" means employment in the private or public sectors for which the employer receives a subsidy from TANF or other public funds to offset

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(27) "Subsidized housing" means housing for a family whose rent is restricted to a percentage of its income.

(28) "Unsubsidized employment" means full- or part-time employment in the public or private sector that is not subsidized by TANF or any other public program.

(29) "Vocational educational training" means organized educational programs, not to exceed twelve (12) months with respect to any participant, that are directly related to the preparation of participants for employment in current or emerging occupations. Vocational educational training must be supervised.

(30) "Work activities" mean the specific work requirements that must be defined in the individual employment plan and must be complied with by the participant as a condition of eligibility for the receipt of cash assistance for single and two-family (2) households outlined in § 40-5.2-12 ~~of this chapter~~.

(31) "Work experience" means a work activity that provides a participant with an opportunity to acquire the general skills, training, knowledge, and work habits necessary to obtain employment. The purpose of work experience is to improve the employability of those who cannot find unsubsidized employment. An employer, work site sponsor, and/or other appropriate designee of the department must supervise this activity.

(32) "Work supplementation," also known as "grant diversion," means the use of all or a portion of a participant's cash assistance grant and food stamp grant as a wage supplement to an employer. The supplement shall be limited to a maximum period of twelve (12) months. An employer must agree to continue the employment of the participant as part of the regular work force, beyond the supplement period, if the participant demonstrates satisfactory performance.

40-5.2-10. Necessary requirements and conditions.

The following requirements and conditions shall be necessary to establish eligibility for the program.

(a) Citizenship, alienage, and residency requirements.

(1) A person shall be a resident of the ~~State~~ **state** of Rhode Island.

(2) Effective October 1, 2008, a person shall be a United States citizen, or shall meet the alienage requirements established in § 402(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PRWORA, ~~Public Laws~~ **Pub. L. No.** 104-193 and as that section may hereafter be amended [8 U.S.C. § 1612]; a person who is not a United States citizen and does not meet the alienage requirements established in PRWORA, as amended, is not eligible for cash assistance in accordance with this chapter.

(b) The family/assistance unit must meet any other requirements established by the department of human services by rules and regulations adopted pursuant to the ~~Administrative Procedures Act~~ **administrative procedures act**, as necessary to promote the purpose and goals of this chapter.

(c) Receipt of cash assistance is conditional upon compliance with all program requirements.

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(d) All individuals domiciled in this state shall be exempt from the application of subdivision 115(d)(1)(A) of ~~Public Law~~ **Pub. L. No.** 104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PRWORA [21 U.S.C. § 862a], which makes any individual ineligible for certain state and federal assistance if that individual has been convicted under federal or state law of any offense that is classified as a felony by the law of the jurisdiction and that has as an element the possession, use, or distribution of a controlled substance as defined in § 102(6) of the Controlled Substances Act (21 U.S.C. § 802(6)).

(e) Individual employment plan as a condition of eligibility.

(1) Following receipt of an application, the department of human services shall assess the financial conditions of the family, including the non-parent caretaker relative who is applying for cash assistance for himself or herself as well as for the minor child(ren), in the context of an eligibility determination. If a parent or non-parent caretaker relative is unemployed or under-employed, the department shall conduct an initial assessment, taking into account: (A) The physical capacity, skills, education, work experience, health, safety, family responsibilities, and place of residence of the individual; and (B) The child care and supportive services required by the applicant to avail himself or herself of employment opportunities and/or work readiness programs.

(2) On the basis of this assessment, the department of human services and the department of labor and training, as appropriate, in consultation with the applicant, shall develop an individual employment plan for the family ~~which~~ **that** requires the individual to participate in the intensive employment services. Intensive employment services shall be defined as the work requirement activities in § 40-5.2-12(g) and (i).

(3) The director, or his or her designee, may assign a case manager to an applicant/participant, as appropriate.

(4) The department of labor and training and the department of human services in conjunction with the participant shall develop a revised individual employment plan that shall identify employment objectives, taking into consideration factors above, and shall include a strategy for immediate employment and for preparing for, finding, and retaining employment consistent, to the extent practicable, with the individual's career objectives.

(5) The individual employment plan must include the provision for the participant to engage in work requirements as outlined in § 40-5.2-12.

(6)(i) The participant shall attend and participate immediately in intensive assessment and employment services as the first step in the individual employment plan, unless temporarily exempt from this requirement in accordance with this chapter. Intensive assessment and employment services shall be defined as the work requirement activities in § 40-5.2-12(g) and (i).

(ii) Parents under age twenty (20) without a high school diploma or general equivalency diploma (GED) shall be referred to special teen-parent programs ~~which~~ **that** will provide intensive services designed to assist teen parents to complete high school education or GED, and to continue approved work plan activities in accord with Rhode Island works program requirements.

(7) The applicant shall become a participant in accordance with this chapter at the time the individual employment plan is signed and entered into.

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(8) Applicants and participants of the Rhode Island works program shall agree to comply with the terms of the individual employment plan, and shall cooperate fully with the steps established in the individual employment plan, including the work requirements.

(9) The department of human services has the authority under the chapter to require attendance by the applicant/participant, either at the department of human services or at the department of labor and training, at appointments deemed necessary for the purpose of having the applicant enter into and become eligible for assistance through the Rhode Island works program. The appointments include, but are not limited to~~,~~: the initial interview, orientation and assessment; job readiness; and job search. Attendance is required as a condition of eligibility for cash assistance in accordance with rules and regulations established by the department.

(10) As a condition of eligibility for assistance pursuant to this chapter, the applicant/participant shall be obligated to keep appointments~~,~~; attend orientation meetings at the department of human services and/or the Rhode Island department of labor and training; participate in any initial assessments or appraisals; and comply with all the terms of the individual employment plan in accordance with department of human services rules and regulations.

(11) A participant, including a parent or non-parent caretaker relative included in the cash assistance payment, shall not voluntarily quit a job or refuse a job unless there is good cause as defined in this chapter or the department's rules and regulations.

(12) A participant who voluntarily quits or refuses a job without good cause, as defined in § 40-5.2-12(l), while receiving cash assistance in accordance with this chapter, shall be sanctioned in accordance with rules and regulations promulgated by the department.

(f) Resources.

(1) The family or assistance unit's countable resources shall be less than the allowable resource limit established by the department in accordance with this chapter.

(2) No family or assistance unit shall be eligible for assistance payments if the combined value of its available resources (reduced by any obligations or debts with respect to such resources) exceeds one thousand dollars ($1,000).

(3) For purposes of this subsection, the following shall not be counted as resources of the family/assistance unit in the determination of eligibility for the works program:

(i) The home owned and occupied by a child, parent, relative, or other individual;

(ii) Real property owned by a husband and wife as tenants by the entirety, if the property is not the home of the family and if the spouse of the applicant refuses to sell his or her interest in the property;

(iii) Real property that the family is making a good-faith effort to dispose of, however, any cash assistance payable to the family for any such period shall be conditioned upon ~~such~~ disposal of the real property within six (6) months of the date of application and any payments of assistance for that period shall (at the time of disposal) be considered overpayments to the extent that they would not have occurred at the beginning of the period for which the payments were made. All overpayments are debts subject to recovery in accordance with the provisions of the chapter;

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(iv) Income-producing property other than real estate including, but not limited to, equipment such as farm tools, carpenter's tools, and vehicles used in the production of goods or services that the department determines are necessary for the family to earn a living;

(v) One vehicle for each adult household member, but not to exceed two (2) vehicles per household, and in addition, a vehicle used primarily for income-producing purposes such as, but not limited to, a taxi, truck, or fishing boat; a vehicle used as a family's home; a vehicle that annually produces income consistent with its fair market value, even if only used on a seasonal basis; a vehicle necessary to transport a family member with a disability where the vehicle is specially equipped to meet the specific needs of the person with a disability or if the vehicle is a special type of vehicle that makes it possible to transport the person with a disability;

(vi) Household furnishings and appliances, clothing, personal effects, and keepsakes of limited value;

(vii) Burial plots (one for each child, relative, and other individual in the assistance unit) and funeral arrangements;

(viii) For the month of receipt and the following month, any refund of federal income taxes made to the family by reason of § 32 of the Internal Revenue Code of 1986, 26 U.S.C. § 32 (relating to earned income tax credit), and any payment made to the family by an employer under § 3507 of the Internal Revenue Code of 1986, 26 U.S.C. § 3507 [repealed] (relating to advance payment of such earned income credit);

(ix) The resources of any family member receiving supplementary security income assistance under the Social Security Act, 42 U.S.C. § 301 et seq.;

(x) Any veteran's disability pension benefits received as a result of any disability sustained by the veteran while in the military service.

(g) Income.

(1) Except as otherwise provided for herein, in determining eligibility for and the amount of cash assistance to which a family is entitled under this chapter, the income of a family includes all of the money, goods, and services received or actually available to any member of the family.

(2) In determining the eligibility for and the amount of cash assistance to which a family/assistance unit is entitled under this chapter, income in any month shall not include the first one hundred seventy dollars ($170) of gross earnings plus fifty percent (50%) of the gross earnings of the family in excess of one hundred seventy dollars ($170) earned during the month.

(3) The income of a family shall not include:

(i) The first fifty dollars ($50.00) in child support received in any month from each ~~non-custodial~~ **noncustodial** parent of a child plus any arrearages in child support (to the extent of the first fifty dollars ($50.00) per month multiplied by the number of months in which the support has been in arrears) that are paid in any month by a ~~non-custodial~~ **noncustodial** parent of a child;

(ii) Earned income of any child;

(iii) Income received by a family member who is receiving ~~supplemental security income~~ **Supplemental Security Income** (SSI) assistance under Title XVI of the Social Security Act, 42 U.S.C. § 1381 et seq.;

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(iv) The value of assistance provided by state or federal government or private agencies to meet nutritional needs, including: value of USDA-donated foods; value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under Title VII, nutrition program for the elderly, of the Older Americans Act of 1965 as amended, and the value of food stamps;

(v) Value of certain assistance provided to undergraduate students, including any grant or loan for an undergraduate student for educational purposes made or insured under any loan program administered by the United States Commissioner of Education (or the Rhode Island council on postsecondary education or the Rhode Island division of higher education assistance);

(vi) Foster care payments;

(vii) Home energy assistance funded by state or federal government or by a nonprofit organization;

(viii) Payments for supportive services or reimbursement of out-of-pocket expenses made to foster grandparents, senior health aides, or senior companions and to persons serving in SCORE and ACE and any other program under Title II and Title III of the Domestic Volunteer Service Act of 1973, 42 U.S.C. § 5000 et seq.;

(ix) Payments to volunteers under AmeriCorps VISTA as defined in the department's rules and regulations;

(x) Certain payments to native Americans; payments distributed per capita to, or held in trust for, members of any Indian Tribe under P.L. 92-254, 25 U.S.C. § 1261 et seq., P.L. 93-134, 25 U.S.C. § 1401 et seq., or P.L. 94-540; receipts distributed to members of certain Indian tribes which are referred to in § 5 of P.L. 94-114, 25 U.S.C. § 459d, that became effective October 17, 1975;

(xi) Refund from the federal and state earned income tax credit;

(xii) The value of any state, local, or federal government rent or housing subsidy, provided that this exclusion shall not limit the reduction in benefits provided for in the payment standard section of this chapter~~.~~;

(xiii) The earned income of any adult family member who gains employment while an active RI Works household member. ~~Such~~ **This** income is excluded for the first six (6) months of employment in which the income is earned, or until the household's total gross income exceeds one hundred ~~and~~ eighty-five ~~(185)~~ percent **(185%)** of the federal poverty level, unless the household reaches its forty-eight~~-(48)~~ month **(48)** time limit first~~.~~;

(xiv) Any veteran's disability pension benefits received as a result of any disability sustained by the veteran while in the military service.

(4) The receipt of a lump sum of income shall affect participants for cash assistance in accordance with rules and regulations promulgated by the department.

(h) Time limit on the receipt of cash assistance.

(1) On or after January 1, 2020, no cash assistance shall be provided, pursuant to this chapter, to a family or assistance unit that includes an adult member who has received cash assistance for a total of forty-eight (48) months (whether or not consecutive), to include any time receiving any type of cash assistance in any other state or territory of the United States of America as defined herein. Provided further, in no circumstances other than provided for in subsection (h)(3) with respect to certain

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minor children, shall cash assistance be provided pursuant to this chapter to a family or assistance unit ~~which~~ **that** includes an adult member who has received cash assistance for a total of a lifetime limit of forty-eight (48) months.

(2) Cash benefits received by a minor dependent child shall not be counted toward their lifetime time limit for receiving benefits under this chapter should that minor child apply for cash benefits as an adult.

(3) Certain minor children not subject to time limit. This section regarding the lifetime time limit for the receipt of cash assistance~~,~~ shall not apply only in the instances of a minor child(ren) living with a parent who receives SSI benefits and a minor child(ren) living with a responsible adult non-parent caretaker relative who is not in the cash assistance payment.

(4) Receipt of family cash assistance in any other state or territory of the United States of America shall be determined by the department of human services and shall include family cash assistance funded in whole or in part by Temporary Assistance for Needy Families (TANF) funds [Title IV-A of the ~~Federal~~ **federal** Social Security Act 42 U.S.C. § 601 et seq.] and/or family cash assistance provided under a program similar to the Rhode Island families work and opportunity program or the federal TANF program.

(5)(i) The department of human services shall mail a notice to each assistance unit when the assistance unit has six (6) months of cash assistance remaining and each month thereafter until the time limit has expired. The notice must be developed by the department of human services and must contain information about the lifetime time limit, the number of months the participant has remaining, the hardship extension policy, the availability of a post-employment-and-closure bonus~~;~~; ~~and~~ and any other information pertinent to a family or an assistance unit nearing the forty-eight-month (48) lifetime time limit.

(ii) For applicants who have less than six (6) months remaining in the forty-eight-month (48) lifetime time limit because the family or assistance unit previously received cash assistance in Rhode Island or in another state, the department shall notify the applicant of the number of months remaining when the application is approved and begin the process required in subsection (h)(5)(i).

(6) If a cash assistance recipient family was closed pursuant to Rhode Island's Temporary Assistance for Needy Families Program (federal TANF described in Title IV-A of the ~~Federal~~ **federal** Social Security Act, 42 U.S.C. § 601 et seq.), formerly entitled the Rhode Island family independence program, more specifically under § 40-5.1-9(2)(c) [repealed], due to sanction because of failure to comply with the cash assistance program requirements; and that recipient family received forty-eight (48) months of cash benefits in accordance with the family independence program, then that recipient family is not able to receive further cash assistance for his/her family, under this chapter, except under hardship exceptions.

(7) The months of state or federally funded cash assistance received by a recipient family since May 1, 1997, under Rhode Island's Temporary Assistance for Needy Families Program (federal TANF described in Title IV-A of the ~~Federal~~ **federal** Social Security Act, 42 U.S.C. § 601 et seq.), formerly entitled the Rhode Island family independence program, shall be countable toward the time-limited cash assistance described in this chapter.

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(i) Time limit on the receipt of cash assistance.

(1) No cash assistance shall be provided, pursuant to this chapter, to a family assistance unit in which an adult member has received cash assistance for a total of sixty (60) months (whether or not consecutive) to include any time receiving any type of cash assistance in any other state or territory of the United States as defined herein effective August 1, 2008. Provided further, that no cash assistance shall be provided to a family in which an adult member has received assistance for twenty-four (24) consecutive months unless the adult member has a rehabilitation employment plan as provided in § 40-5.2-12(g)(5).

(2) Effective August 1, 2008, no cash assistance shall be provided pursuant to this chapter to a family in which a child has received cash assistance for a total of sixty (60) months (whether or not consecutive) if the parent is ineligible for assistance under this chapter pursuant to ~~subdivision 40-5.2(a)(2)~~ **subsection (a)(2) of this section** to include any time they received any type of cash assistance in any other state or territory of the United States as defined herein.

(j) Hardship exceptions.

(1) The department may extend an assistance unit's or family's cash assistance beyond the time limit, by reason of hardship; provided, however, that the number of families to be exempted by the department with respect to their time limit under this subsection shall not exceed twenty percent (20%) of the average monthly number of families to which assistance is provided for under this chapter in a fiscal year; provided, however, that to the extent now or hereafter permitted by federal law, any waiver granted under § ~~40-5.2-35~~ **40-5.2-34**, for domestic violence, shall not be counted in determining the twenty percent (20%) maximum under this section.

(2) Parents who receive extensions to the time limit due to hardship must have and comply with employment plans designed to remove or ameliorate the conditions that warranted the extension.

(k) Parents under eighteen (18) years of age.

(1) A family consisting of a parent who is under the age of eighteen (18), and who has never been married, and who has a child; or a family consisting of a woman under the age of eighteen (18) who is at least six (6) months pregnant, shall be eligible for cash assistance only if the family resides in the home of an adult parent, legal guardian, or other adult relative. The assistance shall be provided to the adult parent, legal guardian, or other adult relative on behalf of the individual and child unless otherwise authorized by the department.

(2) This subsection shall not apply if the minor parent or pregnant minor has no parent, legal guardian, or other adult relative who is living and/or whose whereabouts are unknown; or the department determines that the physical or emotional health or safety of the minor parent, or his or her child, or the pregnant minor, would be jeopardized if he or she was required to live in the same residence as his or her parent, legal guardian, or other adult relative (refusal of a parent, legal guardian, or other adult relative to allow the minor parent or his or her child, or a pregnant minor, to live in his or her home shall constitute a presumption that the health or safety would be so jeopardized); or the minor parent or pregnant minor has lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any child to a minor parent or the onset of the pregnant minor's pregnancy; or there

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is good cause, under depart~~mental~~ regulations, for waiving the subsection; and the individual resides in a supervised supportive living arrangement to the extent available.

(3) For purposes of this section, "supervised supportive-living arrangement" means an arrangement that requires minor parents to enroll and make satisfactory progress in a program leading to a high school diploma or a general education development certificate, and requires minor parents to participate in the adolescent parenting program designated by the department, to the extent the program is available; and provides rules and regulations that ensure regular adult supervision.

(l) Assignment and cooperation. As a condition of eligibility for cash and medical assistance under this chapter, each adult member, parent, or caretaker relative of the family/assistance unit must:

(1) Assign to the state any rights to support for children within the family from any person that the family member has at the time the assignment is executed or may have while receiving assistance under this chapter;

(2) Consent to and cooperate with the state in establishing the paternity and in establishing and/or enforcing child support and medical support orders for all children in the family or assistance unit in accordance with title 15 ~~of the general laws~~, as amended, unless the parent or caretaker relative is found to have good cause for refusing to comply with the requirements of this subsection.

(3) Absent good cause, as defined by the department of human services through the ~~rule-making~~ **rulemaking** process, for refusing to comply with the requirements of **subsections** (l)(1) and (l)(2), cash assistance to the family shall be reduced by twenty-five percent (25%) until the adult member of the family who has refused to comply with the requirements of this subsection consents to and cooperates with the state in accordance with the requirements of this subsection.

(4) As a condition of eligibility for cash and medical assistance under this chapter, each adult member, parent, or caretaker relative of the family/assistance unit must consent to and cooperate with the state in identifying and providing information to assist the state in pursuing any third-party who may be liable to pay for care and services under Title XIX of the Social Security Act, 42 U.S.C. § 1396 et seq.

40-5.2-11. Cash assistance.

(a) A family or assistance unit found by the department to meet the eligibility criteria set forth in this chapter shall be eligible to receive cash assistance as of the date a signed, written application, signed under a penalty of perjury, is received by the department.

(b) The family members or assistance unit shall be eligible for cash assistance for so long as they continue to meet the eligibility criteria outlined in accordance with this chapter. Parents and adult non-parent caretaker relatives receiving cash assistance shall be eligible so long as they meet the terms and conditions of the work requirements of § 40-5.2-12. An adult caretaker relative shall be eligible for assistance as a member of the assistance unit so long as ~~he/she~~ **he or she** meets all the eligibility requirements of this chapter.

(c) The monthly amount of cash assistance shall be equal to the payment standard for the family minus the countable income of the family in that month. The department is authorized to reduce the amount of assistance in the month of application to

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reflect the number of the days between the first day of the month and the effective date of the application.

(d) A decision on the application for assistance shall be made or rejected by the department no later than thirty (30) days following the date submitted and shall be effective as of the date of application.

(e) The payment standard is equal to the sum of the following: ~~three hundred twenty-seven dollars ($327) (two hundred seventy-seven dollars ($277)~~ four hundred twenty-five dollars ($425) (three hundred sixty dollars ($360) for a family residing in subsidized housing) for the first person~~,~~; ~~one hundred twenty-two dollars ($122)~~ one hundred fifty-nine dollars ($159) for the second person~~,~~; ~~one hundred five dollars ($105)~~ one hundred thirty-seven dollars ($137) for the third person; and ~~eighty dollars ($80)~~ ~~and~~ one hundred four dollars ($104) for each additional person.

40-5.2-20. Childcare assistance - Families or assistance units eligible.

(a) The department shall provide appropriate child care to every participant who is eligible for cash assistance and who requires child care in order to meet the work requirements in accordance with this chapter.

(b) Low-income child care. The department shall provide child care to all other working families with incomes at or below one hundred eighty percent (180%) of the federal poverty level if, and to the extent, these other families require child care in order to work at paid employment as defined in the department's rules and regulations. Beginning October 1, 2013, the department shall also provide child care to families with incomes below one hundred eighty percent (180%) of the federal poverty level if, and to the extent, these families require child care to participate on a short-term basis, as defined in the department's rules and regulations, in training, apprenticeship, internship, on-the-job training, work experience, work immersion, or other job-readiness/job-attachment program sponsored or funded by the human resource investment council (governor's workforce board) or state agencies that are part of the coordinated program system pursuant to § 42-102-11. Effective from January 1, 2021, through June 30, 2022, the department shall also provide ~~child care~~ **childcare** assistance to families with incomes below one hundred eighty percent (180%) of the federal poverty level when such assistance is necessary for a member of these families to enroll or maintain enrollment in a Rhode Island public institution of higher education provided that eligibility to receive funding is capped when expenditures reach $200,000 for this provision.

(c) No family/assistance unit shall be eligible for childcare assistance under this chapter if the combined value of its liquid resources exceeds one million dollars ($1,000,000), which corresponds to the amount permitted by the federal government under the state plan and set forth in the administrative rulemaking process by the department. Liquid resources are defined as any interest(s) in property in the form of cash or other financial instruments or accounts that are readily convertible to cash or cash equivalents. These include, but are not limited to: cash, bank, credit union, or other financial institution savings, checking, and money market accounts; certificates of deposit or other time deposits; stocks; bonds; mutual funds; and other similar financial instruments or accounts. These do not include educational savings accounts, plans, or programs; retirement accounts, plans, or programs; or accounts held jointly with another adult, not including a spouse. The department is authorized to

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promulgate rules and regulations to determine the ownership and source of the funds in the joint account.

(d) As a condition of eligibility for childcare assistance under this chapter, the parent or caretaker relative of the family must consent to, and must cooperate with, the department in establishing paternity, and in establishing and/or enforcing child support and medical support orders for any children in the family receiving appropriate child care under this section in accordance with the applicable sections of title 15 ~~of the state's general laws~~, as amended, unless the parent or caretaker relative is found to have good cause for refusing to comply with the requirements of this subsection.

(e) For purposes of this section, "appropriate child care" means child care, including infant, toddler, ~~pre-school~~ **preschool**, nursery school, and school-age, that is provided by a person or organization qualified, approved, and authorized to provide the care by the state agency or agencies designated to make the determinations in accordance with the provisions set forth herein.

(f)(1) Families with incomes below one hundred percent (100%) of the applicable federal poverty level guidelines shall be provided with free child care. Families with incomes greater than one hundred percent (100%) and less than one hundred eighty percent (180%) of the applicable federal poverty guideline shall be required to pay for some portion of the child care they receive, according to a sliding-fee scale adopted by the department in the department's rules, not to exceed seven percent (7%) of income as defined in subsection (h) of this section.

(2) Families who are receiving childcare assistance and who become ineligible for childcare assistance as a result of their incomes exceeding one hundred eighty percent (180%) of the applicable federal poverty guidelines shall continue to be eligible for childcare assistance until their incomes exceed two hundred twenty-five percent (225%) of the applicable federal poverty guidelines. To be eligible, the families must continue to pay for some portion of the child care they receive, as indicated in a sliding-fee scale adopted in the department's rules, not to exceed seven percent (7%) of income as defined in subsection (h) of this section, and in accordance with all other eligibility standards.

(g) In determining the type of child care to be provided to a family, the department shall take into account the cost of available childcare options; the suitability of the type of care available for the child; and the parent's preference as to the type of child care.

(h) For purposes of this section, "income" for families receiving cash assistance under § 40-5.2-11 means gross, earned income and unearned income, subject to the income exclusions in §§ 40-5.2-10(g)(2) and 40-5.2-10(g)(3), and income for other families shall mean gross, earned and unearned income as determined by departmental regulations.

(i) The caseload estimating conference established by chapter 17 of title 35 shall forecast the expenditures for child care in accordance with the provisions of § 35-17-1.

(j) In determining eligibility for childcare assistance for children of members of reserve components called to active duty during a time of conflict, the department shall freeze the family composition and the family income of the reserve component

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member as it was in the month prior to the month of leaving for active duty. This shall continue until the individual is officially discharged from active duty.

40-5.2-33. ~~School-age children~~ Child clothing allowance.

~~Subject to general assembly appropriation, one~~ One month each year, each ~~dependent school-age~~ child ~~as defined by the department of human services~~ who lives in a family receiving cash assistance under this chapter in that month shall be given a supplementary payment of no less than one hundred dollars ($100) for the purchase of clothing in accordance with Title IV-A of the Social Security Act, 42 U.S.C. § 601 et seq.

SECTION 7. Sections 40-6.2-1.1 of the General Laws in Chapter 40-6.2 entitled "Child Care – State Subsidies" is hereby amended to read as follows:

40-6.2-1.1. Rates established.

(a) Through June 30, 2015, subject to the payment limitations in subsection (c), the maximum reimbursement rates to be paid by the departments of human services and children, youth and families for licensed childcare centers and licensed family childcare providers shall be based on the following schedule of the 75th percentile of the 2002 weekly market rates adjusted for the average of the 75th percentile of the 2002 and the 2004 weekly market rates:

LICENSED CHILDCARE CENTERS	75th PERCENTILE OF WEEKLY MARKET RATE
INFANT	$182.00
PRESCHOOL	$150.00
SCHOOL-AGE	$135.00
LICENSED FAMILY CHILDCARE PROVIDERS	75th PERCENTILE OF WEEKLY MARKET RATE
INFANT	$150.00
PRESCHOOL	$150.00
SCHOOL-AGE	$135.00

Effective July 1, 2015, subject to the payment limitations in subsection (c), the maximum reimbursement rates to be paid by the departments of human services and children, youth and families for licensed childcare centers and licensed family childcare providers shall be based on the above schedule of the 75th percentile of the 2002 weekly market rates adjusted for the average of the 75th percentile of the 2002 and the 2004 weekly market rates. These rates shall be increased by ten dollars ($10.00) per week for infant/toddler care provided by licensed family childcare providers and license-exempt providers and then the rates for all providers for all age groups shall be increased by three percent (3%). For the fiscal year ending June 30, 2018, licensed childcare centers shall be reimbursed a maximum weekly rate of one hundred ninety-three dollars and sixty-four cents ($193.64) for infant/toddler care and one hundred sixty-one dollars and seventy-one cents ($161.71) for preschool-age children.

(b) Effective July 1, 2018, subject to the payment limitations in subsection (c), the maximum infant/toddler and preschool-age reimbursement rates to be paid by the departments of human services and children, youth and families for licensed childcare centers shall be implemented in a tiered manner, reflective of the quality rating the

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provider has achieved within the state's quality rating system outlined in § 42-12-23.1.

(1) For infant/toddler child care, tier one shall be reimbursed two and one-half percent (2.5%) above the FY 2018 weekly amount, tier two shall be reimbursed five percent (5%) above the FY 2018 weekly amount, tier three shall be reimbursed thirteen percent (13%) above the FY 2018 weekly amount, tier four shall be reimbursed twenty percent (20%) above the FY 2018 weekly amount, and tier five shall be reimbursed thirty-three percent (33%) above the FY 2018 weekly amount.

(2) For preschool reimbursement rates, tier one shall be reimbursed two and one-half (2.5%) percent above the FY 2018 weekly amount, tier two shall be reimbursed five percent (5%) above the FY 2018 weekly amount, tier three shall be reimbursed ten percent (10%) above the FY 2018 weekly amount, tier four shall be reimbursed thirteen percent (13%) above the FY 2018 weekly amount, and tier five shall be reimbursed twenty-one percent (21%) above the FY 2018 weekly amount.

(c) [Deleted by P.L. 2019, ch. 88, art. 13, § 4.]

(d) By June 30, 2004, and biennially through June 30, 2014, the department of labor and training shall conduct an independent survey or certify an independent survey of the then-current weekly market rates for child care in Rhode Island and shall forward the weekly market rate survey to the department of human services. The next survey shall be conducted by June 30, 2016, and triennially thereafter. The departments of human services and labor and training will jointly determine the survey criteria including, but not limited to, rate categories and sub-categories.

(e) In order to expand the accessibility and availability of quality child care, the department of human services is authorized to establish, by regulation, alternative or incentive rates of reimbursement for quality enhancements, innovative or specialized child care, and alternative methodologies of childcare delivery, including nontraditional delivery systems and collaborations.

(f) Effective January 1, 2007, all childcare providers have the option to be paid every two (2) weeks and have the option of automatic direct deposit and/or electronic funds transfer of reimbursement payments.

(g) Effective July 1, 2019, the maximum infant/toddler reimbursement rates to be paid by the departments of human services and children, youth and families for licensed family childcare providers shall be implemented in a tiered manner, reflective of the quality rating the provider has achieved within the state's quality rating system outlined in § 42-12-23.1. Tier one shall be reimbursed two percent (2%) above the prevailing base rate for step 1 and step 2 providers, three percent (3%) above prevailing base rate for step 3 providers, and four percent (4%) above the prevailing base rate for step 4 providers; tier two shall be reimbursed five percent (5%) above the prevailing base rate; tier three shall be reimbursed eleven percent (11%) above the prevailing base rate; tier four shall be reimbursed fourteen percent (14%) above the prevailing base rate; and tier five shall be reimbursed twenty-three percent (23%) above the prevailing base rate.

(h) Through December 31, 2021, the maximum reimbursement rates paid by the departments of human services, and children, youth and families to licensed childcare centers shall be consistent with the enhanced emergency rates provided as of June 1, 2021, as follows:

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	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
Infant/Toddler	$257.54	$257.54	$257.54	$257.54	$273.00
Pre-school Age	$195.67	$195.67	$195.67	$195.67	$260.00
School Age	$200.00	$200.00	$200.00	$200.00	$245.00

The maximum reimbursement rates paid by the departments of human services, and children, youth and families to licensed family childcare providers shall be consistent with the enhanced emergency rates provided as of June 1, 2021, as follows:

	Tier 1	Tier 2	Tier 3	Tier 4	Tier 5
Infant/Toddler	$224.43	$224.43	$224.43	$224.43	$224.43
Pre-school Age	$171.45	$171.45	$171.45	$171.45	$171.45
School Age	$162.30	$162.30	$162.30	$162.30	$162.30

(i) Effective January 1, 2022, the maximum reimbursement rates to be paid by the departments of human services and children, youth and families for licensed childcare centers shall be implemented in a tiered manner, reflective of the quality rating the provider has achieved within the state's quality rating system outlined in § 42-12-23.1. Maximum weekly rates shall be reimbursed as follows:

LICENSED CHILDCARE CENTERS

	Tier One	Tier Two	Tier Three	Tier Four	Tier Five
Infant/Toddler	$236.36	$244.88	$257.15	$268.74	$284.39
Preschool	$207.51	$212.27	$218.45	$223.50	$231.39
School-Age	$180.38	$182.77	$185.17	$187.57	$189.97

The maximum reimbursement rates for licensed family childcare providers paid by the departments of human services, and children, youth and families is determined through collective bargaining. The maximum reimbursement rates for infant/toddler and preschool age children paid to licensed family childcare providers by both departments is implemented in a tiered manner that reflects the quality rating the provider has achieved in accordance with § 42-12-23.1.

SECTION 8. Sections 42-56-20.2, 42-56-24 and 42-56-38 of the General Laws in Chapter 42-56 entitled "Corrections Department" are hereby amended to read as follows:

42-56-20.2. Community confinement.

(a) Persons subject to this section. Every person who shall have been adjudged guilty of any crime after trial before a judge, a judge and jury, or before a single judge entertaining the person's plea of nolo contendere or guilty to an offense ("adjudged person"), and every person sentenced to imprisonment in the adult correctional institutions ("sentenced person") including those sentenced or imprisoned for civil contempt, and every person awaiting trial at the adult correctional institutions ("detained person") who meets the criteria set forth in this section shall be subject to the terms of this section except:

(1) Any person who is unable to demonstrate that a permanent place of residence ("eligible residence") within this state is available to that person; or

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(2) Any person who is unable to demonstrate that he or she will be regularly employed, or enrolled in an educational or vocational training program within this state, and within thirty (30) days following the institution of community confinement; or

(3)(i) Any adjudged person or sentenced person or detained person who has been convicted, within the five (5) years next preceding the date of the offense for which he or she is currently so adjudged or sentenced or detained, of a violent felony. A "violent felony" as used in this section shall mean any one of the following crimes or an attempt to commit that crime: murder~~,~~; ~~manslaughter~~~~,~~; sexual assault~~,~~; mayhem~~,~~; robbery~~,~~; burglary~~,~~; assault with a dangerous weapon~~,~~; assault or battery involving serious bodily injury~~,~~; arson~~,~~; breaking and entering into a dwelling~~,~~; child molestation~~,~~; kidnapping~~,~~; DWI resulting in death or serious injury~~,~~; **or** driving to endanger resulting in death or serious injury; or

(ii) Any person currently adjudged guilty of or sentenced for or detained on any capital felony; or

(iii) Any person currently adjudged guilty of or sentenced for or detained on a felony offense involving the use of force or violence against a person or persons. These shall include, but are not limited to, those offenses listed in subsection (a)(3)(i) of this section; or

(iv) Any person currently adjudged guilty, sentenced, or detained for the sale, delivery, or possession with intent to deliver a controlled substance in violation of § 21-28-4.01(a)(4)(i) or possession of a certain enumerated quantity of a controlled substance in violation of §§ 21-28-4.01.1 or § 21-28-4.01.2; or

(v) Any person currently adjudged guilty of, or sentenced for, or detained on an offense involving the illegal possession of a firearm.

(b) Findings prior to sentencing to community confinement. In the case of adjudged persons, if the judge intends to impose a sentence of community confinement, he or she shall first make specific findings, based on evidence regarding the nature and circumstances of the offense and the personal history, character, record, and propensities of the defendant ~~which~~ **that** are relevant to the sentencing determination, and these findings shall be placed on the record at the time of sentencing. These findings shall include, but are not limited to:

(1) A finding that the person does not demonstrate a pattern of behavior indicating a propensity for violent behavior;

(2) A finding that the person meets each of the eligibility criteria set forth in subsection (a) **of this section**;

(3) A finding that simple probation is not an appropriate sentence;

(4) A finding that the interest of justice requires, for specific reasons, a sentence of non-institutional confinement; and

(5) A finding that the person will not pose a risk to public safety if placed in community confinement.

The facts supporting these findings shall be placed on the record and shall be subject to review on appeal.

(c) Community confinement.

(1) There shall be established within the department of corrections, a community confinement program to serve that number of adjudged persons, sentenced persons, and detainees, that the director of the department of corrections ("director") shall

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(2) Intense surveillance. The application and order shall prescribe a program of intense surveillance and supervision by the department of corrections. Persons confined under the provisions of this section shall be subject to searches of their persons or of their property when deemed necessary by the director, or his or her designee, in order to ensure the safety of the community, supervisory personnel, the safety and welfare of that person, and/or to ensure compliance with the terms of that person's program of community confinement; provided, however, that no surveillance, monitoring or search shall be done at manifestly unreasonable times or places nor in a manner or by means that would be manifestly unreasonable under the circumstances then present.

(3) The use of any electronic surveillance or monitoring device which is affixed to the body of the person subject to supervision is expressly prohibited unless set forth in the application and order or, in the case of sentenced persons classified to community confinement under subsection (h), otherwise authorized by the director of corrections.

(4) Regulatory authority. The director shall have full power and authority to enforce any of the provisions of this section by regulation, subject to the provisions of the Administrative Procedures Act, chapter 35 of **this** title ~~42~~. Notwithstanding any provision to the contrary, the department of corrections may contract with private agencies to carry out the provisions of this section. The civil liability of those agencies and their employees, acting within the scope of their employment, and carrying out the provisions of this section, shall be limited in the same manner and dollar amount as if they were agencies or employees of the state.

(e) Violations. Any person confined pursuant to the provisions of this section, who is found to be a violator of any of the terms and conditions imposed upon him or her according to the order, or in the case of sentenced persons classified to community confinement under subsection (h), otherwise authorized by the director of corrections, this section, or any rules, regulations, or restrictions issued pursuant hereto shall serve the balance of his or her sentence in a classification deemed appropriate by the director. If that conduct constitutes a violation of § 11-25-2, the person, upon conviction, shall be subject to an additional term of imprisonment of not less than one year and not more than twenty (20) years. However, it shall be a defense to any alleged violation that the person was at the time of the violation acting out of a necessary response to an emergency situation. An "emergency situation" shall be construed to mean the avoidance by the defendant of death or of substantial personal injury, as defined above, to him or herself or to others.

(f) Costs. Each person confined according to this section shall reimburse the state for the costs or a reasonable portion thereof incurred by the state relating to the community confinement of those persons. Costs shall be initially imposed by the sentencing judge or in the order and shall be assessed by the director prior to the expiration of that person's sentence. Once assessed, those costs shall become a lawful debt due and owing to the state by that person. Monies received under this section shall be deposited as general funds.

(g) Severability. Every word, phrase, clause, section, subsection, and any of the provisions of this section are hereby declared to be severable from the whole, and a

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declaration of unenforceability or unconstitutionality of any portion of this section, by a judicial court of competent jurisdiction, shall not affect the portions remaining.

(h) Sentenced persons approaching release. Notwithstanding the provisions set forth within this section, any sentenced person committed under the direct care, custody, and control of the adult correctional institutions, who is within ~~six (6) months~~ one (1) year of the projected good time release date, provided that the person shall have completed at least one-half (1/2) of the full term of incarceration, or any person who is sentenced to a term of six (6) months or less of incarceration, provided that the person shall have completed at least ~~three-fourths (3/4)~~ one-half (1/2) of the term of incarceration, may in the discretion of the director of corrections be classified to community confinement. This provision shall not apply to any person whose current sentence was imposed upon conviction of murder, first degree sexual assault or first degree child molestation.

(i) Notification to police departments. The director, or his or her designee, shall notify the appropriate police department when a sentenced, adjudged or detained person has been placed into community confinement within that department's jurisdiction. That notice will include the nature of the offense and the express terms and conditions of that person's confinement. That notice shall also be given to the appropriate police department when a person in community confinement within that department's jurisdiction is placed in escape status.

(j) No incarceration credit for persons awaiting trial. No detainee shall be given incarceration credit by the director for time spent in community confinement while awaiting trial.

(k) No confinement in college or university housing facilities. Notwithstanding any provision of the general laws to the contrary, no person eligible for community confinement shall be placed in any college or university housing facility, including, but not limited to, dormitories, fraternities or sororities. College or university housing facilities shall not be considered an "eligible residence" for "community confinement."

(l) A sentencing judge shall have authority to waive overnight stay or incarceration at the adult correctional institution after the sentencing of community confinement. ~~Such a~~ The waiver shall be binding upon the adult correctional institution and the staff thereof, including, but not limited to the community confinement program.

42-56-24. Earned time for good behavior or program participation or completion.

(a) A person serving a sentence of a violation of §§ 11-5-1 (where the specified felony is murder), § 11-23-1, § 11-26-1.4, § 11-37-2, § 11-37-8.1, or § 11-37-8.3 shall not be eligible to earn time off their term or terms of incarceration for good behavior.

(b) The director, or his or her designee, shall keep a record of the conduct of each prisoner, and for each month that a prisoner who has been sentenced to imprisonment for six (6) months or more and not under sentence to imprisonment for life, appears by the record to have faithfully observed all the rules and requirements of the institutions and not to have been subjected to discipline, and is serving a sentence imposed for violation of sexual offenses under §§ 11-37-4, § 11-37-6, § 11-37-8 or § 11-9-1.3 there shall, with the consent of the director of the department of corrections, or his or her designee, upon recommendation to him or her ~~by the~~ assistant director of

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institutions/operations, be deducted from the term or terms of sentence of that prisoner the same number of days that there are years in the term of his or her sentence; provided, that when the sentence is for a longer term than ten (10) years, only ten (10) days shall be deducted for one month's good behavior; and provided, further, that in the case of sentences of at least six (6) months and less than one year, one day per month shall be deducted.

For the purposes of this subsection computing the number of days to be deducted for good behavior, consecutive sentences shall be counted as a whole sentence. This subsection recognizes the serious nature of sex offenses; promotes community safety and protection of the public; and maintains the ability of the department of corrections to oversee the rehabilitation and supervision of sex offenders.

(c) For all prisoners serving sentences of more than one month, and not serving a sentence of imprisonment for life or a sentence imposed for a violation of the offenses identified in subsection (a) or (b) **of this section** the director, or his or her designee, shall keep a record of the conduct of each prisoner, and for each month that prisoner has faithfully observed all the rules and requirements of the institutions and has not been subjected to discipline, there shall, with the consent of the director of the department of corrections or his or her designee and upon recommendation by the assistant director of institutions/operations, be deducted from the term or terms of sentence of that prisoner ten (10) days for each month's good behavior.

(d) For every day a prisoner shall be shut up or otherwise disciplined for bad conduct, as determined by the assistant director, institutions/operations, subject to the authority of the director, there shall be deducted one day from the time he or she shall have gained for good conduct.

(e) The assistant director, or his or her designee, subject to the authority of the director, shall have the power to restore lost good conduct time in whole or in part upon a showing by the prisoner of subsequent good behavior and disposition to reform.

(f) For each month that a prisoner who has been sentenced to imprisonment for more than one month and not under sentence to imprisonment for life ~~who~~ has faithfully engaged in institutional industries there shall, with the consent of the director, upon the recommendations to him or her by the assistant director, institutions/operations, be deducted from the term or terms of the prisoner an additional two (2) days a month.

(g) Except those prisoners serving a sentence imposed for violation of subsection (a) or (b) **of this section**, for each month that a prisoner who has been sentenced to imprisonment for more than one month and not under sentence to imprisonment for life has participated faithfully in programs that have been determined by the director or his/her designee to address that prisoner's individual needs that are related to his/her criminal behavior, there may, with the consent of the director and upon the recommendation of the assistant director, rehabilitative services, be deducted from the term or terms of the prisoner up to an additional five (5) days a month. Furthermore, whenever the prisoner has successfully completed such program, they may, with the consent of the director and upon the recommendation by the assistant director, rehabilitative services, be deducted from the term or terms of the prisoner up to an additional thirty (30) days.

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(h) **(1)** A person who is serving a term or terms of a probation sentence of one year or longer, including a person who has served a term of incarceration followed by a probation sentence, except those serving a term of probation for a sentence in violation of §§ 11-5-1 (where the specified felony is murder or sexual assault), § 11-23-1, § 11-26-1.4, § 11-37-2, § 11-37-8.1, or § **11-37-8.3 shall upon serving three years of their probation sentence be eligible to earn time off** their term or terms of the probation sentence for compliance with court-ordered terms and conditions of probation. Calculation of these credits shall commence upon the probationer's completion of all terms of incarceration.

~~(i)~~ **(2)** The director, or his or her designee, shall keep a record of the conduct of each probationer. For each month that the probationer has not had a judicial finding of a violation of conditions of probation, there shall, with the consent of the director of the department of corrections, or designee, upon recommendation of the assistant director of institutions/operations, or designee, be deducted from the term or terms of the probationer's sentence ~~(10)~~ ten days **(10)** for each month's compliance with the terms and conditions of ~~their~~ **his or her probation.**

~~(ii)~~ **(3)** For each month that a violation of probation is pending the probationer shall not be eligible to earn probation compliance credits. In the event there is a judicial determination that the probationer did not violate his or her terms and conditions of probation, credit will be awarded retroactive to the date of the filing of the probation violation. In the event there is a judicial determination that the probationer did violate his or her terms and conditions of probation, the probationer shall not be awarded compliance credits for the time during which the violation was pending, and further, the court may order revocation of prior earned compliance credits.

~~(iii)~~ **(4)** The probation department of the department of corrections shall keep a record of the probationer's sentence to include the person's end of sentence date based on earned credits for compliance with their terms and conditions of probation.

~~(iv)~~ **(5)** This section shall apply to all individuals sentenced to probation, including those sentenced prior to enactment of the statute. However, the award of probation compliance credits shall be prospective only from the date of enactment of the statute.

42-56-38. Assessment of costs~~;~~

(a) Each sentenced offender committed to the care, custody**,** or control of the department of corrections shall reimburse the state for the cost or the reasonable portion of the cost incurred by the state relating to that commitment; provided, however, that a person committed, awaiting trial and not convicted, shall not be liable for the reimbursement. Items of cost shall include physical services and commodities such as food, medical, clothing**,** and specialized housing, as well as social services such as specialized supervision and counseling. Costs shall be assessed by the director of corrections, or his or her designee, based upon each person's ability to pay, following a public hearing of proposed fee schedules. Each offender's family income and number of dependents shall be among the factors taken into consideration when determining ability to pay. Moneys received under this section shall be deposited as general revenues. The director shall promulgate rules and regulations necessary to carry out the provisions of this section. The rules and regulations shall provide that the financial

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situation of persons, financially dependent on the person, be considered prior to the determination of the amount of reimbursement. This section shall not be effective until the date the rules and regulations are filed with the office of the secretary of state.

(b) Notwithstanding the provision of subsection (a), or any rule or regulation promulgated by the director, any sentenced offender who is ordered or directed to the work release program, shall pay no less than thirty percent (30%) of his or her ~~gross~~ net salary for room and board.

SECTION 9. This article shall take effect upon passage.

ARTICLE 14 AS AMENDED
RELATING TO HOUSING

SECTION 1. Chapter 42-51 of the General Laws entitled "Governor's Commission on Disabilities" is hereby amended by adding thereto the following section:

42-51-13. Livable home modification program.

(a) There is hereby established the livable home modification program for home modification and accessibility enhancements to construct, retrofit, and/or renovate residences to allow individuals with significant disabilities to remain in community settings.

(b) Any eligible resident who retrofits or hires an individual to retrofit an existing residence~~;~~, provided that, such retrofitting meets the qualification criteria and guidelines as established by the commission, shall be eligible for a livable home modification grant of fifty percent (50%) of the total amount spent, not to exceed an amount annually appropriated by the commission in accordance with § 35-3-24.

(c) The commission is authorized and directed to issue regulations regarding:

(1) Income eligibility and other qualifications for a grant;

(2) Application guidelines;

(3) The maximum reimbursement;

(4) Filing claims for reimbursement; and

(5) Appeal procedures for applicants who are determined to be ineligible.

(d) By August 15 of each year, the commission shall submit an annual report to the governor, speaker of the house, senate president, and chairpersons of the house and senate finance committees for the period from July 1 to June 30 on the actual:

(1) Number of grants issued to qualifying individuals;

(2) Number of applications ~~which~~ ~~who~~ **that** did not qualify;

(3) Total dollar amount of grants issued;

(4) Average dollar amount of the grants issued;

(5) Number of retrofits by accessibility features; and

(6) Prognosis for the individual if the retrofit had not been made ~~which~~ ~~that~~ which shall determine:

(i) Increased likelihood of falls and other related emergency room, hospital, and/or rehabilitation expenses;

(ii) Loss of independence; and

(iii) Move into a long-term-care facility.

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EXHIBIT

6

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STATE OF RHODE ISLAND

PROVIDENCE, SC **SUPERIOR COURT**

PEDRO REYES	:	
	:	
v.	:	**PM-2023-03653**
	:	
STATE OF RHODE ISLAND	:	

ORDER

This matter came to be heard before the Honorable Justice Stephen P. Nugent on the 11th day of January 2024, on the Petitioner's Application for Post Conviction Relief and the State's Motion for Summary Judgment, and after hearing thereon and in consideration of the written memoranda filed by the parties and the Rhode Island Department of Corrections, it is hereby

ORDERED, ADJUDGED and DECREED:

1. That, the Petitioner, Pedro Reyes, was convicted after jury trial of count 1 second degree murder and count 3 discharging a firearm resulting in death on January 28, 2002 in P1-2001-3193AG.
2. That, the Petitioner was then sentenced to mandatory consecutive life sentences on May 6, 2002, by Justice Krause.
3. That, thereafter, the Rhode Island Department of Corrections set the Petitioner's parole eligibility date as August 1, 2036, in accordance with RIGL § 13-8-13 section (a) 3 and section (d).
4. That, the Petitioner indicated in his post-conviction relief application that RIGL § 13-8-13 section (d) alone should be applied to calculate his parole eligibility date as it specifically addresses consecutive life sentences imposed after June 30, 1995, and, in doing so, he should be parole eligible on August 1, 2031.
5. That, the Court, after hearing and in consideration of written memoranda, finds that RIGL § 13-8-13 is not arbitrary and hereby gives precedence to the specific statutory provisions over the general statutory provisions.
6. That, in doing so, the Court further finds RIGL § 13-8-13 section (d) shall be the sole provision applied to the calculation of parole eligibility of those sentences which consist of consecutive life sentences.
7. That, in accordance with RIGL § 13-8-13 section (d), the Petitioner shall be eligible for parole after serving 15 years on each life sentence, and thus, his parole eligibility date shall be on or about August 1, 2031.
8. That, Judgement shall be entered for the Petitioner and the State's Motion for Summary Judgment granted.

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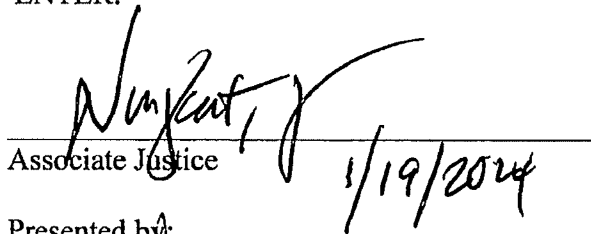
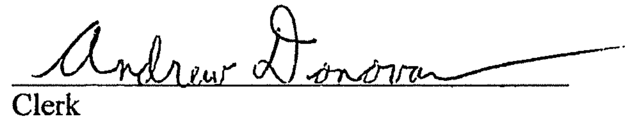


Associate Justice

PER ORDER:



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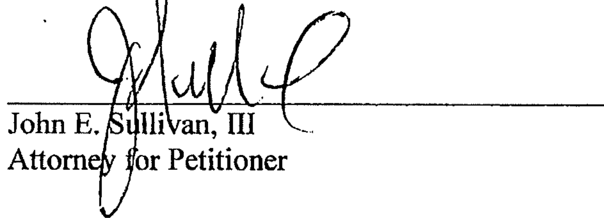

John E. Sullivan, III
Attorney for Petitioner

CERTIFICATION

I, the undersigned, hereby certify that a copy of this Order Memorandum has been e-filed through the ECF filing system and is available for viewing and downloading and was e-mailed to Judy Davis, Esquire and Nicole DiLibero, Esquire on this 18th day of January 2024.