

2015 -- S 0823

=====
LC001900
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

—————
A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - SUPERIOR COURT

Introduced By: Senators Lombardi, Archambault, Conley, Lynch, and Jabour

Date Introduced: April 09, 2015

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 8-2-11.1, 8-2-39, 8-2-39.1 and 8-2-39.2 of the General Laws in
2 Chapter 8-2 entitled "Superior Court" are hereby amended to read as follows:

3 **8-2-11.1. Administrator/magistrate.** -- (a) Any person holding the position of
4 administrative clerk in the superior court who is a member of the bar of Rhode Island may be
5 appointed administrator/magistrate for a term of ten (10) years and until a successor is appointed
6 and qualified, by the presiding justice, with the advice and consent of the senate, in his or her
7 capacity as administrative judge. Nothing herein shall be construed to prohibit the assignment of
8 an administrator/magistrate to more than one such term, subject to the advice and consent of the
9 senate. Any magistrate in service as of January 1, 2008 who serves at the pleasure of the
10 presiding justice of the superior court may be appointed for a term of ten (10) years with the
11 advice and consent of the senate and until a successor is appointed and qualified.

12 (b) (1) The administrator/magistrate shall have the power to hear and determine such
13 matters as may be assigned to the administrator/magistrate by the presiding justice all to the same
14 effect as if done by a justice of the superior court.

15 (2) Without limiting the generality of the foregoing powers and authority, the
16 administrator/magistrate is authorized and empowered to hear and determine motions in civil and
17 criminal proceedings, formal and special causes, to conduct arraignments, to grant or deny bail, to
18 accept pleas of not guilty, guilty, or nolo contendere, and to impose sentence on a plea of guilty
19 or nolo contendere, all to the same effect as if done by a justice of the superior court.

- 1 (c) The administrator/magistrate may be authorized:
- 2 (1) To regulate all proceedings before him or her;
- 3 (2) To do all acts and take all measures necessary or proper for the efficient performance
4 of his or her duties;
- 5 (3) To require the production before him or her of books, papers, vouchers, documents,
6 and writings;
- 7 (4) To rule upon the admissibility of evidence;
- 8 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
9 examine them, and to call parties to the proceeding and examine them upon oath;
- 10 (6) To adjudicate a person in contempt and to order him or her imprisoned for not more
11 than seventy-two (72) hours, pending review by a justice of the court, for failure to appear in
12 response to a summons or for refusal to answer questions or produce evidence or for behavior
13 disrupting a proceeding;
- 14 (7) To adjudicate a party in contempt and to order him or her imprisoned for not more
15 than seventy-two (72) hours, pending review by a justice of the court, for failure to comply with a
16 pending order to provide payment or to perform any other act; and
- 17 (8) To issue a *capias* and/or body attachment upon the failure of a party or witness to
18 appear after having been properly served and, should the court not be in session, the person
19 apprehended may be detained at the adult correctional institution, if an adult, or at the Rhode
20 Island training school for youth, if a child, until the next session of the court.
- 21 (d) A party aggrieved by an order entered by the administrator/magistrate shall be
22 entitled to a review of the order by a justice of the superior court. Unless otherwise provided in
23 the rules of procedure of the court, the review shall be on the record and appellate in nature. The
24 court shall, by rules of procedure, establish procedures for review of orders entered by the
25 administrator/magistrate, and for enforcement of contempt adjudications of the
26 administrator/magistrate.
- 27 (e) Final orders of the superior court entered in a proceeding to review an order of the
28 administrator/magistrate may be appealed to the supreme court.
- 29 (f) The administrator/magistrate shall be:
- 30 (1) Governed by the commission on judicial tenure and discipline, chapter 16, of this
31 title, in the same manner as justices and judges;
- 32 (2) Subject to all provisions of the canons of judicial ethics;
- 33 (3) Subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.
- 34 [\(g\) The administrator/magistrate shall:](#)

1 (1) Receive all credits and retirement allowances as afforded employees within the state
2 retirement system;

3 (2) Receive a salary as set by the state court administrator pursuant to § 8-15-4.

4 **8-2-39. General magistrate -- Appointment, duties and powers. --** (a) There is hereby
5 created within the superior court the position of general magistrate who shall be appointed by the
6 presiding justice of the superior court, with the advice and consent of the senate, for a term of ten
7 (10) years and until a successor is appointed and qualified. Nothing herein shall be construed to
8 prohibit the assignment of the general magistrate to more than one such term, subject to the
9 advice and consent of the senate. The person appointed to serve as general magistrate shall be a
10 member of the bar of Rhode Island. The powers and duties of the general magistrate shall be
11 prescribed in the order appointing him or her.

12 (b) (1) The general magistrate shall assist the court in:

13 (i) The determination of, monitoring, collection, and payment of restitution and court
14 ordered fines, fees, and costs or the ordering of community service in lieu of or in addition to the
15 payment of restitution, fines, fees, and costs, consistent with other provisions of the general laws;

16 (ii) The determination and payment of claims under the violent crimes indemnity fund
17 for the Criminal Injuries Compensation Act of 1972, chapter 25 of title 12;

18 (iii) The determination and payment of claims from the Criminal Royalties Distribution
19 Act of 1983, chapter 25.1 of title 12; and

20 (iv) Such other matters as the presiding justice of the superior court determines are
21 necessary.

22 (2) The chief justice of the supreme court, with the consent of the presiding justice and,
23 if applicable, the chief judge of a particular court, may assign the general magistrate to serve as a
24 magistrate in any court of the unified system. When the general magistrate is so assigned he or
25 she shall be vested, authorized, and empowered with all the powers belonging to the magistrate
26 position to which he or she is specially assigned.

27 (c) The general magistrate will be empowered to hear all motions, pretrial conferences,
28 arraignments, probable cause hearings, bail hearings, bail and probation revocation hearings, and
29 to review all such matters including, but not limited to the above, and to modify the terms and
30 conditions of probation and other court-ordered monetary payments including, but not limited to,
31 the extension of time for probation and court-ordered monetary payments as provided by law.
32 The general magistrate shall have the power to take testimony in connection with all matters set
33 forth herein.

34 (d) The general magistrate may be authorized:

1 (1) To regulate all proceedings before him or her;

2 (2) To do all acts and take all measures necessary or proper for the efficient performance
3 of his or her duties;

4 (3) To require the production before him or her of books, papers, vouchers, documents,
5 and writings;

6 (4) To rule upon the admissibility of evidence;

7 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
8 examine them, and to call parties to the proceeding and examine them upon oath;

9 (6) To adjudicate a person in contempt and to order him or her imprisoned for not more
10 than seventy-two (72) hours, pending review by a justice of the relevant court, for failure to
11 appear in response to a summons or for refusal to answer questions or produce evidence or for
12 behavior disrupting a proceeding;

13 (7) To adjudicate a party in contempt and to order him or her imprisoned for not more
14 than seventy-two (72) hours, pending review by a justice of the relevant court, for failure to
15 comply with a pending order to provide payment or to perform any other act; and

16 (8) To issue a *capias* and/or body attachment upon the failure of a party or witness to
17 appear after having been properly served and, should the court not be in session, the person
18 apprehended may be detained at the adult correctional institutions, if an adult, or at the Rhode
19 Island training school for youth, if a child, until the next session of the court.

20 (e) A party aggrieved by an order entered by the general magistrate shall be entitled to a
21 review of the order by a justice of the relevant court. Unless otherwise provided in the rules of
22 procedure of the court, such review shall be on the record and appellate in nature. The court shall,
23 by rules of procedure, establish procedures for review of orders entered by a general magistrate,
24 and for enforcement of contempt adjudications of a general magistrate.

25 (f) Final orders of the superior or family court entered in a proceeding to review an order
26 of a general magistrate may be appealed to the supreme court. Final orders of the district court
27 entered in a proceeding to review an order of the general magistrate may be appealed to the
28 superior court.

29 (g) The general magistrate shall:

30 (1) Receive all credits and retirement allowances as afforded ~~justices under chapter 3 of~~
31 ~~this title and any other applicable law, including without limitation, § 8-3-16;~~ [employees within](#)
32 [the state retirement system;](#)

33 (2) Receive a salary ~~equivalent to that of a district court judge;~~ [as set by the state court](#)
34 [administrator pursuant to § 8-15-4;](#)

1 (3) Be governed by the commission on judicial tenure and discipline, chapter 16, of this
2 title, in the same manner as justices and judges;

3 (4) Be subject to all provisions of the canons of judicial ethics or code of judicial
4 conduct;

5 (5) Be subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.

6 (h) The provisions of this section shall be afforded liberal construction.

7 (i) The presiding justice of the superior court shall initially appoint such support staff as
8 may be necessary, relating to preparation, investigation, and implementation of the general
9 magistrate's functions. Effective November 15, 1993, the support staff shall be placed under the
10 supervision and management of the superior court, and new appointments or personnel changes in
11 the support staff shall be subject to the directions and approval of the superior court, consistent
12 with any applicable collective bargaining agreements. The general magistrate shall have the
13 power and authority to issue subpoenas and to compel the attendance of witnesses at any place
14 within the state, to administer oaths and to require testimony under oath. The general magistrate,
15 or his or her designee, may serve his or her process or notices in a manner provided for the
16 service of process and notice in civil or criminal actions in accordance with the rules of court.

17 **8-2-39.1. Special magistrate. --** There is hereby created within the superior court the
18 position of special magistrate, who shall be appointed by the presiding justice of the superior
19 court, with the advice and consent of the senate, for a period of ten (10) years, and until a
20 successor is appointed and qualified. Nothing contained herein shall be construed to prohibit the
21 reappointment of a special magistrate for one or more additional ten (10) year terms, subject to
22 the advice and consent of the senate. The person appointed to serve as special magistrate shall be
23 a member of the bar of the state of Rhode Island. The special magistrate shall have the duties,
24 responsibilities, powers and benefits as authorized in section 8-2-39. [Shall receive a salary as set
25 by the state court administrator pursuant to § 8-15-4, and be entitled to all credits and retirement
26 allowances as afforded employees within the state retirement system.](#)

27 **8-2-39.2. Drug court magistrate -- Appointment, duties and powers. --** (a) For the
28 purposes of this chapter:

29 (1) "Non-violent" means and includes all charges that are not crimes of violence, the
30 following being a list of all charges considered to be crimes of violence for the purposes of this
31 section: murder, manslaughter, first degree arson, kidnapping with intent to extort, robbery, first
32 degree sexual assault, second degree sexual assault, first and second degree child molestation,
33 assault, assault with intent to murder, assault with intent to rob, assault with intent to commit first
34 degree sexual assault, entering a dwelling house with intent to commit murder, robbery, or sexual

1 assault.

2 (2) "Drug addicted person" means a person who exhibits a maladaptive pattern of
3 behavior resulting from drug use, including one or more of the following: impaired control over
4 drug use; compulsive use; and/or continued use despite harm, and craving.

5 (b) There is hereby created within the superior court the position of Drug Court
6 Magistrate who shall be appointed by the presiding justice of the superior court with the advice
7 and consent of the senate. The persons appointed to serve as Drug Court Magistrates shall be
8 members of the bar of Rhode Island. The powers and duties of the Drug Court Magistrate shall be
9 prescribed in the order appointing him or her in addition to those described herein.

10 The Drug Court Magistrate's term shall be ten (10) years and until a successor is
11 appointed and qualified. Nothing in this article shall prohibit a Drug Court Magistrate from being
12 reappointed for additional ten (10) year terms by the presiding justice of the superior court with
13 the advice and consent of the senate. He or she shall receive a salary ~~equivalent to that received~~
14 ~~by the special magistrate assigned to the superior court.~~ as set by the state court administrator
15 pursuant to § 8-15-4 and be entitled to all credits and retirement allowances as afforded
16 employees within the state retirement system. The Drug Court Magistrate shall preside over the
17 Adult Drug Court. The Adult Drug Court Program shall combine the coercive powers of the court
18 with a therapeutic regimen in order to rehabilitate drug addicted defendants.

19 (c) The Drug Court Magistrate shall be empowered to hear and decide as a superior court
20 justice all matters relating to those adult offenders who come before the jurisdiction of the
21 superior court on any offense relating to the offender's participation in the Adult Drug Court. In
22 addition, the Drug Court Magistrate shall have the power to impose a period of incarceration
23 upon a plea of guilty or nolo contendere, and also have the power to confine any person who has
24 been found to be in violation of any conditions previously imposed by the superior court.

25 (d) The Drug Court Magistrate shall make the final determination as to whether a
26 defendant is admitted into the program. Individuals meeting the following criteria, shall be
27 screened by staff working at the office of the attorney general upon the department's own referral,
28 upon a request by counsel entered on behalf of a defendant; upon request by a judge of the
29 superior or district court, or, in the case of a person waivable by the family court, by a judge of
30 that court, or the department of corrections for admittance into the Adult Drug Court:

31 (1) The individual is charged with or convicted of an alcohol or drug related offense or
32 with an appropriate non-violent offense.

33 (2) The individual has no pending charges or prior convictions for felony crimes of
34 violence.

1 (3) The individual has no pending charges or prior convictions for delivery of a
2 controlled substance.

3 (4) The defendant is a drug addicted person.

4 (e) All individuals accepted into Drug Court will be bound by a Drug Court contract, as
5 defined by the Adult Drug Court, which sets forth the court's expectations, the role and
6 responsibilities of the Drug Court, the conditions imposed upon and the responsibilities of the
7 defendant, and the treatment plan goals and strategies. If a defendant fails to abide by the Drug
8 Court conditions and orders, he or she may be terminated from the program by the Drug Court
9 judge and sentenced as he or she deems appropriate.

10 (f) The Drug Court Magistrate shall be empowered to hear and decide as a superior court
11 justice all matters that may come before the superior court pursuant to chapter 37.1 of title 11
12 "Sexual Offender Registration and Community Notification."

13 (g) The Drug Court Magistrate and/or the presiding justice of the superior court may fix
14 the venue of any person who is before the superior court as a participant in the Adult Drug Court
15 or who is alleged to be a sexual predator, and who has filed an objection to community
16 notification.

17 (h) In addition, at the discretion of the presiding justice of the superior court, the drug
18 court magistrate shall have the duties, responsibilities and powers authorized in subsections 8-2-
19 39(b), (c) and (d).

20 (i) The Drug Court Magistrate shall be governed by the commission on judicial tenure
21 and discipline, chapter 16 of title 8 in the same manner as justices and judges; shall be subject to
22 all provisions of the canons of judicial ethics or code of judicial conduct; and shall be subject to
23 all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.

24 (j) A party aggrieved by an order entered by the Drug Court Magistrate shall be entitled
25 to a review of the order by a justice of the superior court. Unless otherwise provided in the rules
26 of procedure of the court, such review shall be on the record and appellate in nature. The superior
27 court shall, by rules of procedure, establish procedures for reviews of orders entered by a Drug
28 Court Magistrate, and for enforcement of contempt adjudications of a Drug Court Magistrate.

29 SECTION 2. Sections 8-8-8.1 and 8-8-16.2 of the General Laws in Chapter 8-8 entitled
30 "District Court" are hereby amended to read as follows:

31 **8-8-8.1. Administrator/clerk -- Magistrate.** -- (a) Administrator/clerk. - There shall be a
32 district court administrator/clerk who shall be appointed by the chief judge in his or her capacity
33 as administrative head of the court, and who shall hold office at the pleasure of the administrative
34 judge. The administrator/clerk shall perform such duties and attend to such matters as may be

1 assigned to the administrator/clerk by the administrative judge, other than those duties assigned to
2 the chief clerk in section 8-8-19. Said duties may be assigned by the chief judge.

3 (b) Magistrate. - Any person holding the position of district court administrator/clerk
4 who is a member of the bar of Rhode Island may be appointed district court magistrate by the
5 chief judge in his or her capacity as administrative head of the court, subject to the advice and
6 consent of the senate. The district court magistrate shall hold said office for a term of ten (10)
7 years and until a successor is appointed and qualified; and the magistrate shall retain whatever
8 right he or she may have to the position of district court administrator/clerk pursuant to this
9 section. Nothing herein shall be construed to prohibit the appointment of the magistrate for more
10 than one term, subject to the advice and consent of the senate. Any person holding office of
11 district court magistrate on July 1, 1999 may continue in full authority in said position until such
12 time as an appointment is made and the nominee qualified pursuant to this subsection.

13 (c) The district court magistrate shall have the power to hear and determine such matters
14 as may be assigned to the district court magistrate by the chief judge all to the same effect as if
15 done by a judge of the district court, including but not limited to:

16 (1) Matters relating to the determination of, monitoring, collection, and payment of
17 restitution and court ordered fines, fees, and costs or the ordering of community service in lieu of
18 or in addition to the payment of restitution, fines, fees, and costs, consistent with other provisions
19 of the general laws;

20 (2) Arraignments and pretrial motions in misdemeanor, petty misdemeanor, violation,
21 and ordinance cases and initial appearances and probable cause hearings in felony cases;

22 (3) Bail hearings pursuant to R.I. Const., Art. I, Sec. IX and all other bail matters
23 pursuant to chapter 13 of title 12 and the rules of criminal procedure, including but not limited to
24 motions to modify bail, bail revocation hearings, bail forfeiture hearings, and bail source
25 hearings;

26 (4) All matters relating to fugitives from justice pursuant to chapter 9 of title 12;

27 (5) Probation revocation hearings;

28 (6) All matters relating to small claims and consumer claims pursuant to chapter 16 of
29 title 10, including any pretrial motions including motions relating to the special service of
30 process, the entry of defaults and default judgments, the trial of such cases and the entry of
31 judgment after such trials, and all matters relating to the enforcement of such judgments,
32 including but not limited to the ordering of installment payments and trustee process; and

33 (7) Complaints for judicial review of the decision of an administrative agency pursuant
34 to chapter 35 of title 42 by making proposed findings of fact and recommendations for the

1 disposition of the complaints to a judge of the court. Any party may object to any portion of the
2 magistrate's proposed findings and recommendations within ten (10) days after receipt of a copy
3 thereof. That party shall file with the clerk of the sixth division of the district court and serve on
4 all parties written objections which shall specifically identify the portions of the proposed
5 findings and recommendations to which objection is made and the basis for the objection. A
6 judge shall make a de novo determination of those portions to which objection is made and may
7 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
8 magistrate. Absent a timely objection filed in accordance with this subdivision, the proposed
9 prevailing party shall, upon expiration of the ten (10) days following the service of the
10 magistrate's proposed findings and recommendations, submit a proposed order for signature of
11 the judge to whom the case has been assigned.

12 (d) The magistrate may be authorized:

13 (1) To regulate all proceedings before him or her;

14 (2) To do all acts necessary or proper for the efficient performance of his or her duties;

15 (3) To require the production before him or her of books, papers, vouchers, documents,
16 and writings;

17 (4) To rule upon the admissibility of evidence;

18 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
19 examine them, and to call parties to the proceeding and examine them upon oath;

20 (6) To adjudicate a person in contempt and to order him or her fined or to order him or
21 her imprisoned for not more than seventy-two (72) hours, pending review by a judge of the court,
22 for failure to appear in response to a summons or for refusal to answer questions or produce
23 evidence or for behavior disrupting a proceeding or other contempt of his or her authority;

24 (7) To adjudicate a person in contempt and to order him or her fined or to order him or
25 her imprisoned for not more than seventy-two (72) hours, pending review by a judge of the court,
26 for failure to comply with a pending order to provide payment or to perform any other act;

27 (8) To issue a capias and/or body attachment for the failure of a party or witness to
28 appear after having been properly served or given notice by the court and, should the court not be
29 in session, the person apprehended may be detained at the adult correctional institution, if an
30 adult, or at the Rhode Island training school for youth, if a child, until the next session of the
31 court;

32 (9) To issue writs of habeas corpus to bring before him or her or a judge of the court any
33 person in jail or in prison to be examined as a witness in a suit or proceeding, civil or criminal,
34 pending before the court, or whose presence is necessary as a party or otherwise necessary so that

1 the ends of justice may be attained, and for no other purpose; and

2 (10) To issue warrants of arrest and search warrants to the same extent as an associate
3 judge of the court.

4 (e) Except as otherwise indicated, a party aggrieved by an order entered by the district
5 court magistrate shall be entitled to a review of the order, whether by appeal or otherwise, by a
6 judge of the court. The court shall, by rules of procedure, establish procedures for review of
7 contempt and adjudications of the magistrate.

8 (f) The magistrate shall be:

9 (1) Governed by the commission on judicial tenure and discipline, chapter 16 of this
10 title, in the same manner as justices and judges;

11 (2) Subject to all provisions of the canons of judicial ethics;

12 (3) Subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.

13 (g) The magistrate shall:

14 (1) Receive all credits and retirement allowances as afforded employees within the state
15 retirement system;

16 (2) Receive a salary as set by the state court administrator pursuant to § 8-15-4.

17 ~~(g)~~(h) The provisions of this section shall be afforded liberal construction.

18 **8-8-16.2. District court clerk/magistrate.** -- (a) Any person who is a member of the bar
19 of Rhode Island may be appointed district court clerk/magistrate by the chief judge in his or her
20 capacity as administrative head of the court, subject to the advice and consent of the senate. The
21 district court clerk/magistrate shall hold that office for a term of ten (10) years and until a
22 successor is appointed and qualified. Nothing herein shall be construed to prohibit the assignment
23 of the district court clerk/magistrate to more than one such term, subject to the advice and consent
24 of the senate. The district court clerk/magistrate shall have the power to hear and determine any
25 matters that may be assigned to the district court clerk/magistrate by the chief judge all to the
26 same effect as if done by a judge of the district court, including, but not limited to, matters
27 relating to the determination of, monitoring, collection and payment of restitution and court
28 ordered fines, fees and costs or the ordering of community service in lieu of or in addition to the
29 payment of restitution, fines, fees and costs, consistent with other provisions of the general laws.

30 (b) The clerk/magistrate may be authorized:

31 (1) To regulate all proceedings before him or her;

32 (2) To do all acts necessary or proper for the efficient performance of his or her duties;

33 (3) To require the production before him or her of books, papers, vouchers, documents
34 and writings;

1 (4) To rule upon the admissibility of evidence;

2 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
3 examine them and to call parties to the proceeding and examine them upon oath;

4 (6) To adjudicate a person in contempt and to order him or her fined or to order him or
5 her imprisoned for not more than seventy-two (72) hours, for failure to appear in response to a
6 summons or for refusal to answer questions or produce evidence or for behavior disrupting a
7 proceeding or other contempt of his or her authority; provided; however, that no such
8 imprisonment shall occur prior to review by a judge of the court.

9 (7) To adjudicate a person in contempt and to order him or her fined or to order him or
10 her imprisoned for not more than seventy-two (72) hours, for failure to comply with a pending
11 order to provide payment or to perform any other act; provided, however, that no such
12 imprisonment shall occur prior to review by a judge of the court.

13 (8) To issue a capias and/or body attachment for the failure of a party or witness to
14 appear after having been properly served or given notice by the court and, should the court not be
15 in session, the person apprehended may be detained at the adult correctional institutions, if an
16 adult, or at the Rhode Island training school for youth, if a child, until the next session of the
17 court;

18 (9) To issue writs of habeas corpus to bring before him or her or a judge of the court any
19 person in jail or in prison to be examined as a witness in a suit or proceeding, civil or criminal,
20 pending before the court, or whose presence is necessary as a party or otherwise necessary so that
21 the ends of justice may be attained, and for no other purpose; and

22 (10) To issue warrants of arrest and search warrants to the same extent as an associate
23 judge of the court.

24 (c) Except as otherwise indicated, a party aggrieved by an order entered by the district
25 court clerk/magistrate shall be entitled to a review of the order, whether by appeal or otherwise,
26 by a judge of the court. The court shall, by rules of procedure, establish procedures for review of
27 contempt and adjudications of the clerk/magistrate.

28 (d) The district court clerk/magistrate shall:

29 (1) Be governed by the commission on judicial tenure and discipline, pursuant to chapter
30 16 of this title, in the same manner as justices and judges;

31 (2) Be subject to all provisions of the canons of judicial ethics;

32 (3) Be subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.

33 (4) Receive any salary that may be established by the state court administrator pursuant
34 to § 8-15-4.

1 (5) Receive all credits and retirement allowances as afforded employees within the state
2 retirement systems.

3 The provisions of this section shall be afforded liberal construction.

4 SECTION 3. Section 8-8.2-1 of the General Laws in Chapter 8-8.2 entitled "Traffic
5 tribunal" is hereby amended to read as follows:

6 **8-8.2-1. Establishment -- Rule-making authority -- Adjudication of violations. --** (a)

7 There is hereby established a traffic tribunal which shall be charged with the administration and
8 adjudication of traffic violations within its jurisdiction. The traffic tribunal shall be under the
9 supervision of the chief magistrate of the traffic tribunal, who shall be the administrative head of
10 the traffic tribunal and shall have the power to make rules for regulating practice, procedure and
11 business within the traffic tribunal. Pursuant to § 8-6-2, said rules shall be subject to the approval
12 of the supreme court. Such rules, when effective, shall supersede any statutory regulation in
13 conflict therewith. Any person who has been a member of the bar of Rhode Island may be
14 appointed chief magistrate of the traffic tribunal. The chief magistrate of the traffic tribunal shall
15 be appointed by the chief justice of the supreme court, with the advice and consent of the senate,
16 for a period of ten (10) years and until a successor is appointed and qualified. Nothing contained
17 herein shall be construed to prohibit the reappointment of the chief magistrate for one or more ten
18 (10) year terms subject to the advice and consent of the senate. Compensation for the chief
19 magistrate shall be equal to that of an associate judge of the district court.

20 (b) The judges and magistrates of the traffic tribunal shall hear and determine cases as
21 provided by law. No district court judge appointed pursuant to chapter 8 of this title shall be
22 assigned to perform duties of a judge or magistrate of the traffic tribunal under this chapter. The
23 chief magistrate of the traffic tribunal may assign a judge or magistrate who is authorized to hear
24 and decide cases in the traffic tribunal to serve as administrative judge or magistrate of the traffic
25 tribunal and the administrative judge or magistrate shall perform such administrative duties as
26 may be delegated to him or her by the chief magistrate. Once assigned to the position, the
27 administrative judge or magistrate shall hold said administrative position for the remainder of his
28 or her respective term as a judge or magistrate of the traffic tribunal.

29 (c) (1) Those judges of the administrative adjudication court in active service on July 1,
30 1999 shall serve within the traffic tribunal. Whenever the total number of judges and magistrates
31 in the traffic tribunal exclusive of the chief magistrate shall be less than seven (7), the chief
32 justice of the supreme court, with the advice and consent of the senate, may, as needed, assign a
33 duly qualified member of the bar of this state to act as a magistrate to fill such vacancy and shall
34 submit his or her name to the senate for confirmation. In the event of a vacancy in the position of

1 chief magistrate, the chief justice of the supreme court shall appoint a successor in accordance
2 with subsection 8-8.2-1(a). Any magistrate assigned under this section shall serve a term of ten
3 (10) years and until a successor is appointed and qualified, and shall be in the unclassified service
4 of the state. Nothing herein shall be construed to prohibit the assignment of a magistrate to more
5 than one such term, subject to the advice and consent of the senate. Compensation for any such
6 magistrate shall ~~in no event be equal to or more than that of an associate judge of the district court~~
7 be set by the state court administrator pursuant to § 8-15-4. Magistrates of the traffic tribunal
8 shall participate in the state retirement system in the same manner as all members of the
9 unclassified service.

10 (2) If any judge of the traffic tribunal shall retire, or a vacancy becomes available
11 through death, disability or any other reason, the position shall be filled by a magistrate consistent
12 with the provisions of this section.

13 (d) Each judge and magistrate of the traffic tribunal shall devote full time to his or her
14 judicial duties, except as may be otherwise provided by law. He or she shall not practice law
15 while holding office, nor shall he or she be a partner or associate of any person in the practice of
16 law.

17 (e) Judges and magistrates of the traffic tribunal shall be subject to the provisions of R.I.
18 Const. Art. XI; to the code of judicial conduct or successor code promulgated by the supreme
19 court of this state, to the jurisdiction of the Commission on Judicial Tenure and Discipline in
20 accordance with chapter 16 of this title; and to the administrative authority and control of the
21 chief justice of the supreme court in accordance with chapter 15 of this title, except that §§ 8-15-3
22 and 8-15-3.1 shall not apply to judges of the traffic tribunal.

23 (f) The traffic tribunal shall be a tribunal of record and shall have a seal with such words
24 and devices as it shall adopt.

25 (g) Judges and magistrates of the traffic tribunal shall have the power to administer oaths
26 and affirmations.

27 (h) Administrative/supervisory officials.

28 (1) There shall be an assistant to the administrative magistrate of the traffic tribunal who
29 shall be appointed by and serve at the pleasure of the chief magistrate and who shall perform such
30 clerical and administrative duties as may be assigned to him or her by the chief magistrate of the
31 traffic tribunal and the administrative judge or magistrate of the traffic tribunal. The assistant to
32 the administrative judge or magistrate shall have the power to administer oaths and affirmations
33 within the state.

34 (2) There shall be a clerk of the traffic tribunal who shall be appointed by and serve at

1 the pleasure of the chief magistrate of the traffic tribunal; provided, however, that, effective July
2 1, 1999, the first clerk of the traffic tribunal shall be that person holding the position of
3 administrator/clerk of the administrative adjudication court as of May 1, 1998, and that person
4 shall hold office for the balance of a term of twelve (12) years which began on September 1,
5 1992, without the necessity of appointment by the governor or advice and consent of the senate.
6 The clerk of the traffic tribunal shall exercise his or her functions under the direction and control
7 of the chief magistrate of the traffic tribunal and the administrative judge or magistrate of the
8 traffic tribunal. The clerk of the traffic tribunal shall have the power to administer oaths and
9 affirmations within the state.

10 (i) Clerical Personnel/Court Recorders.

11 (1) The chief magistrate of the traffic tribunal shall appoint deputy clerks and assistance
12 clerks for the traffic tribunal to serve at his or her pleasure. All such clerks may administer oaths
13 and affirmations within the state.

14 (2) The chief magistrate of the traffic tribunal shall appoint sufficient court recorders to
15 enable all proceedings to be recorded by electronic means and who shall assist in such other
16 clerical duties as may be prescribed from time to time by the chief magistrate of the traffic
17 tribunal.

18 (3) The chief magistrate of the traffic tribunal shall employ such clerical assistants in
19 addition to deputy clerks as may be required in the traffic tribunal to perform clerical duties.

20 SECTION 4. Sections 8-10-3.1 and 8-10-3.2 of the General Laws in Chapter 8-10
21 entitled "Family Court" are hereby amended to read as follows:

22 **8-10-3.1. Magistrates -- Appointment, duties, and powers.** -- (a) The chief judge of the
23 family court may appoint magistrates, with the advice and consent of the senate, to assist the
24 court in the conduct of its business. A person appointed to serve as a magistrate shall be a
25 member of the bar of Rhode Island. The powers and duties of magistrates shall be prescribed in
26 the order appointing them.

27 (b) In addition, magistrates may assist the court in:

28 (1) the enforcement and implementation of chapter 23.1 of title 15,

29 (2) the determination of matters that come before the court pursuant to section 8-10-4,
30 chapter 1 of title 14, chapters 5, 7, 8, 9, 10 and 16 of title 15, chapter 19 of title 16, chapter 11 of
31 title 40, and chapter 5 of title 40.1.

32 Magistrates shall be empowered to hear and determine all motions, pretrial conferences,
33 arraignments of juvenile offenders, probable cause hearings, and review of all such matters,
34 including but not limited to, the temporary placement, custody, disposition and adoption of

1 children, orders of support, final divorce decrees, and the taking of testimony in conducting all
2 hearings relative thereto subject to the review provided for in subsection (d).

3 (c) The magistrates shall serve a term of ten (10) years and until a successor is appointed
4 and qualified and his or her powers and duties shall be prescribed in the order appointing him or
5 her or in the rules of procedure of the family court. Any magistrate in service as of January 1,
6 2008 who serves at the pleasure of the chief judge of the family court may be appointed for a
7 term of ten (10) years with the advice and consent of the senate and until a successor is appointed
8 and qualified. Nothing herein shall be construed to prohibit the assignment of a magistrate to
9 more than one such term, subject to the advice and consent of the senate. The magistrates may be
10 authorized:

11 (1) To regulate all proceedings before him or her;

12 (2) To do all acts and take all measures necessary or proper for the efficient performance
13 of his or her duties;

14 (3) To require the production before him or her of books, papers, vouchers, documents,
15 and writings;

16 (4) To rule upon the admissibility of evidence;

17 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
18 examine them, and to call parties to the proceeding and examine them upon oath;

19 (6) To adjudicate a person in contempt and to order him or her imprisoned for not more
20 than seventy-two (72) hours, pending review by a justice of the court, for failure to appear in
21 response to a summons or for refusal to answer questions or produce evidence or for behavior
22 disrupting a proceeding;

23 (7) To adjudicate a party in contempt and to order him or her imprisoned for not more
24 than seventy-two (72) hours, pending review by a justice of the court, for failure to comply with a
25 pending order to provide support or to perform any other act; and

26 (8) To issue a *capias* and/or body attachment upon the failure of a party or witness to
27 appear after having been properly served and, should the family court not be in session, the
28 person apprehended may be detained at the adult correctional institution, if an adult, or at the
29 Rhode Island training school for youth, if a child, until the next session of the family court.

30 (d) A party aggrieved by an order entered by a magistrate shall be entitled to a review of
31 the order by a justice of the family court. Unless otherwise provided in the rules of procedure of
32 the family court, such review shall be on the record and appellate in nature. The family court shall
33 by rules of procedure establish procedures for review of orders entered by a magistrate, and for
34 enforcement of contempt adjudications of a magistrate.

1 (e) Final orders of the family court entered in a proceeding to review an order of a
2 magistrate may be appealed to the supreme court.

3 (f) The magistrates shall be empowered to hear de novo all applications for income
4 withholding pursuant to chapter 16 of title 15 and appeals of administrative agency orders of the
5 department of human services to withhold income under chapter 16 of title 15.

6 (g) The magistrates shall be empowered to hear all matters relating to the revocation or
7 nonrenewal of a license of an obligor due to non-compliance with a court order of support, in
8 accordance with chapter 11.1 of title 15.

9 (h) The magistrates may be authorized by the chief judge to hear those matters on the
10 domestic abuse prevention calendar and the nominal calendar.

11 (i) The magistrates shall:

12 (1) Receive all credits and retirement allowances as afforded employees within the state
13 retirement system;

14 (2) Receive a salary as set by the state court administrator pursuant to § 8-15-4.

15 [See section 12-1-15 of the General Laws.]

16 **8-10-3.2. General magistrate of the family court.** -- (a) There is hereby created within
17 the family court the position of general magistrate of the family court who shall be appointed by
18 the chief judge of the family court with the advice and consent of the senate for a term of ten (10)
19 years and until a successor is appointed and qualified. Nothing herein shall be construed to
20 prohibit the assignment of the general magistrate to more than one such term, subject to the
21 advice and consent of the senate.

22 (b) The general magistrate shall be an attorney at law and a member in good standing of
23 the Rhode Island bar.

24 (c) The primary function of the general magistrate shall be the enforcement of child
25 support decrees, orders, and law relative to child support. The general magistrate shall have all
26 the authority and powers vested in magistrates by virtue of §§ 8-10-3, 8-10-3.1, 9-15-19, 9-15-21,
27 9-14-26, 9-18-8, 9-18-9, and 36-2-3, and any other authority conferred upon magistrates by any
28 general or public law or by any rule of procedure or practice of any court within the state.

29 (d) The chief justice of the supreme court with the agreement of the chief judge of the
30 family court may specially assign the general magistrate to any court of the unified judicial
31 system; provided, however, that the general magistrate may be assigned to the superior court
32 subject to the prior approval of the presiding justice of the superior court. When the general
33 magistrate is so assigned he or she shall be vested, authorized, and empowered with all the
34 powers belonging to the magistrates of the court to which he or she is specially assigned.

- 1 (e) The general magistrate shall:
- 2 (1) Receive all credits and retirement allowances as afforded ~~justices under chapter 3 of~~
3 ~~this title and any other applicable law;~~ employees within the state retirement system;
- 4 (2) Be governed by the commission on judicial tenure and discipline, chapter 16 of this
5 title, in the same manner as justices and workers' compensation judges;
- 6 (3) Be entitled to a special license plate under § 31-3-47;
- 7 (4) Receive a salary ~~equivalent to that of a district court judge;~~ as set by the state court
8 administrator pursuant to § 8-15-4;
- 9 (5) Be subject to all the provisions of the canons of judicial ethics; and
- 10 (6) Be subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.
- 11 (f) The general magistrate of the family court who shall at the time of passage of this
12 section hold the position of general magistrate, shall upon retirement, at his or her own request
13 and at the direction of the chief justice of the supreme court, subject to the retiree's physical and
14 mental competence, be assigned to perform such services as general magistrate of the family
15 court, as the chief judge of the family court shall prescribe. When so assigned and performing
16 such service, the general magistrate shall have all the powers and authority of general magistrate
17 of the family court, but otherwise shall have no powers nor be authorized to perform any judicial
18 duties. For any such service or assignments performed after retirement, the general magistrate
19 shall receive no compensation whatsoever, either monetary or in kind. Such a retired general
20 magistrate shall not be counted in the number of judicial officers provided by law for the family
21 court.
- 22 (g) The provisions of this section shall be afforded liberal construction.
- 23 SECTION 5. This act shall take effect upon passage and apply prospectively to any
24 vacancy which occurs after the date of passage as to retirement credits and allowances and the
25 application of the state retirement system with no effect on the retirement credit or allowance of
26 any incumbent magistrate upon appointment or reappointment.

=====
LC001900
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - SUPERIOR COURT

1 This act would authorize the state court administrator to set the salaries of all magistrates
2 pursuant to § 8-15-4 and prospectively make uniform the receipt of state employee pension
3 benefits for all magistrates within the state court.

4 This act would take effect upon passage and apply prospectively to any vacancy which
5 occurs after the date of passage as to retirement credits and allowances and the application of the
6 state retirement system with no effect on the retirement credit or allowance of any incumbent
7 magistrate upon appointment or reappointment.

=====
LC001900
=====