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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Representatives Noret, Casimiro, Vella-Wilkinson, Corvese, Alzate,
Solomon, Craven, Casey, Place, and C Lima

Date Introduced: February 26, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended
2 by adding thereto the following section:

3 **11-47-64. Review and appeal of the decision of the police department, licensing**
4 **authority or attorney general.**

5 (a) A decision denying a firearms transfer and/or permit pursuant to either §§ 11-47-11 or
6 11-47-18 shall be final unless further review and/or appeal is initiated in writing within fifteen (15)
7 days after the decision has been mailed to the applicant at the address listed on the application. The
8 postmark date on the envelope containing the denial shall serve as the date from which an appeal
9 may be taken.

10 (b) Upon appeal, an aggrieved individual shall submit a written request to the local police
11 department, licensing authority or the department of the attorney general. Any request must be
12 submitted within fifteen (15) days after the denial has been mailed to the address provided by the
13 applicant. The postmark date on the envelope containing the denial shall serve as the date for
14 commencing the fifteen (15) day appeal period.

15 (1) The police department, licensing authority or the department of the attorney general
16 shall schedule and conduct an in-person meeting within twenty-one (21) days of the request to
17 review and discuss the decision. The meeting shall only be scheduled or rescheduled beyond the
18 initial twenty-one (21) day period by agreement of the parties and/or for good cause, but in no event
19 exceed sixty (60) days.

1 (2) The applicant may submit any supplemental documentation or written evidence relative
2 to the application, which shall become part of the application.

3 (3) The meeting shall be conducted as an informal meeting, not as an administrative
4 hearing. The police department, licensing authority or the department of the attorney general shall
5 receive and consider documents and other evidence without regard to statutory and common law
6 rules. No stenographic record, transcription, video, audio or other recording is allowed.

7 (4) The applicant may be represented at this meeting by an attorney.

8 (5) The police department, licensing authority or the department of the attorney general
9 shall within seven (7) days after the meeting mail a decision to the applicant. The decision shall be
10 in writing and state with specificity the reason(s) and evidence upon which the denial was based.

11 (c) An aggrieved individual may appeal the decision denying a firearms transfer and/or
12 permit pursuant to either §§ 11-47-11 or 11-47-18, or of the decision of the request to reconsider
13 to the superior court of the state of Rhode Island for the county in which the police department,
14 licensing authority or attorney general is located, by filing a complaint and miscellaneous petition,
15 within twenty-one (21) days after the decision has been mailed to the applicant at the address listed
16 on the application.

17 (1) The complaint shall state the grounds upon which review is sought but need not be
18 verified.

19 (2) Upon appeal, the petitioner is entitled to a trial de novo before a justice of the superior
20 court without a jury.

21 (3) Within thirty (30) days of the notice of appeal, the police department, licensing
22 authority or attorney general shall provide a full, complete and certified copy of the application and
23 all submitted documents to both the applicant/petitioner and the superior court.

24 (d) Pursuant to chapter 2 of title 38, the request to reconsider and the appeal to superior
25 court, shall not be deemed public. All documents, records and proceedings before the police
26 department, licensing authority, the department of the attorney general and the superior court are
27 not open to the public but may be accessed by law enforcement personnel to be used for law
28 enforcement purposes only and shall remain otherwise confidential.

29 (e) An applicant may have his or her hearing open to the public upon written request to the
30 superior court.

31 (f) The superior court shall award reasonable attorneys' fees, costs and filing fees to the
32 prevailing applicant if the court finds that there is no justiciable issue of either law of fact or to the
33 prevailing applicant if the police department, licensing authority or the department of the attorney
34 general did not have a good faith basis for the denial.

1 SECTION 2. Section 38-2-2 of the General Laws in Chapter 38-2 entitled "Access to Public
2 Records" is hereby amended to read as follows:

3 **38-2-2. Definitions.**

4 As used in this chapter:

5 (1) "Agency" or "public body" means any executive, legislative, judicial, regulatory, or
6 administrative body of the state, or any political subdivision thereof; including, but not limited to:
7 any department, division, agency, commission, board, office, bureau, authority; any school, fire, or
8 water district, or other agency of Rhode Island state or local government that exercises
9 governmental functions; any authority as defined in § 42-35-1(b); or any other public or private
10 agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of
11 any public agency.

12 (2) "Chief administrative officer" means the highest authority of the public body.

13 (3) "Public business" means any matter over which the public body has supervision,
14 control, jurisdiction, or advisory power.

15 (4) "Public record" or "public records" shall mean all documents, papers, letters, maps,
16 books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data
17 processing records, computer stored data (including electronic mail messages, except specifically
18 for any electronic mail messages of or to elected officials with or relating to those they represent
19 and correspondence of or to elected officials in their official capacities), or other material regardless
20 of physical form or characteristics made or received pursuant to law or ordinance or in connection
21 with the transaction of official business by any agency. For the purposes of this chapter, the
22 following records shall not be deemed public:

23 (A)(I)(a) All records relating to a client/attorney relationship and to a doctor/patient
24 relationship, including all medical information relating to an individual in any files.

25 (b) Personnel and other personal individually identifiable records otherwise deemed
26 confidential by federal or state law or regulation, or the disclosure of which would constitute a
27 clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq.; provided,
28 however, with respect to employees, and employees of contractors and subcontractors working on
29 public works projects that are required to be listed as certified payrolls, the name, gross salary,
30 salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other
31 remuneration in addition to salary, job title, job description, dates of employment and positions
32 held with the state, municipality, or public works contractor or subcontractor on public works
33 projects, employment contract, work location, and/or project, business telephone number, the city
34 or town of residence, and date of termination shall be public. For the purposes of this section

1 "remuneration" shall include any payments received by an employee as a result of termination, or
2 otherwise leaving employment, including, but not limited to, payments for accrued sick and/or
3 vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision.

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

15 (B) Trade secrets and commercial or financial information obtained from a person, firm,
16 or corporation that is of a privileged or confidential nature.

17 (C) Child custody and adoption records, records of illegitimate births, and records of
18 juvenile proceedings before the family court.

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

34 (E) Any records that would not be available by law or rule of court to an opposing party in

1 litigation.

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

4 (G) Any records that disclose the identity of the contributor of a bona fide and lawful
5 charitable contribution to the public body whenever public anonymity has been requested of the
6 public body with respect to the contribution by the contributor.

7 (H) Reports and statements of strategy or negotiation involving labor negotiations or
8 collective bargaining.

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

11 (J) Any minutes of a meeting of a public body that are not required to be disclosed pursuant
12 to chapter 46 of title 42.

13 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work
14 products, including those involving research at state institutions of higher education on commercial,
15 scientific, artistic, technical, or scholarly issues, whether in electronic or other format; provided,
16 however, any documents submitted at a public meeting of a public body shall be deemed public.

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

20 (M) Correspondence of or to elected officials with or relating to those they represent and
21 correspondence of or to elected officials in their official capacities.

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

27 (O) All tax returns.

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

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

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

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

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

7 (U) Library records that, by themselves or when examined with other public records, would
8 reveal the identity of the library user requesting, checking out, or using any library materials.

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

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

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

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

22 (Z) Any individually identifiable evaluations of public school employees made pursuant to
23 state or federal law or regulation.

24 (AA) All documents prepared by school districts intended to be used by school districts in
25 protecting the safety of their students from potential and actual threats.

26 (BB) All documents, records and information produced pursuant to any appeal in
27 accordance with the provisions of § 11-47-64 before a police department, licensing authority, the
28 department of the attorney general and the superior court.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO CRIMINAL OFFENSES -- WEAPONS

- 1 This act would create an appeal process, in which an applicant for a concealed firearms
2 permit or firearms transfer, would appeal the denial of the permits with the right to a hearing in the
3 superior court and would require all records of the appeal process be deemed non-public records.
4 This act would take effect upon passage.

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