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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2025

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- STATE CRIME LABORATORY
COMMISSION

Introduced By: Senator Matthew L. LaMountain

Date Introduced: April 04, 2025

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 12-1.1 of the General Laws entitled "State Crime Laboratory
2 Commission" is hereby repealed in its entirety.

3 ~~CHAPTER 12-1.1~~

4 ~~State Crime Laboratory Commission~~

5 ~~12-1.1-1. Short title.~~

6 ~~This chapter shall be known and may be cited as the "State Crime Laboratory~~
7 ~~Commission."~~

8 ~~12-1.1-2. Legislative findings and purpose.~~

9 ~~The general assembly recognizes and declares that:~~

10 ~~(1) Examining crime scenes for evidence is essentially a state and local problem;~~

11 ~~(2) The establishment of appropriate goals, objectives, and standards for the examination~~
12 ~~of crime scenes and the training of appropriate personnel in such techniques must be a priority~~
13 ~~concern;~~

14 ~~(3) The functions of a state crime lab must be coordinated in an efficient and effective~~
15 ~~manner;~~

16 ~~(4) The full and effective use of resources affecting state and local crime scene~~
17 ~~investigations requires the complete cooperation of state and local law enforcement agencies; and~~

18 ~~(5) Training, research, evaluation, and technical assistance activities must be encouraged~~

1 ~~and focused on the improvement of scientific criminal investigation in Rhode Island.~~

2 **12-1.1-3. Creation.**

3 ~~There is established the state laboratories for scientific criminal investigation commission,~~
4 ~~called throughout this chapter the state crime laboratory commission.~~

5 **12-1.1-4. Membership.**

6 ~~(a) The commission shall consist of five (5) members: the attorney general; the~~
7 ~~superintendent of state police; and a representative of the Rhode Island Police Chiefs Association~~
8 ~~appointed by the governor with the advice and consent of the senate; and two (2) public members~~
9 ~~appointed by the governor with the advice and consent of the senate. Appointed public members~~
10 ~~shall serve two (2) year terms and shall be eligible to succeed themselves.~~

11 ~~(b) Members shall serve until their successors are appointed and qualified. Each member~~
12 ~~of the board may designate a subordinate within his or her department or agency to represent him~~
13 ~~or her at all meetings of the board. Three (3) members of the board shall constitute a quorum and~~
14 ~~the vote of a majority of those present and voting shall be required for action.~~

15 ~~(c) Members of the commission shall be removable by the governor pursuant to the~~
16 ~~provisions of § 36-1-7 of the general laws and for cause only, and removal solely for partisan or~~
17 ~~personal reasons unrelated to capacity or fitness for the office shall be unlawful.~~

18 **12-1.1-5. Chairperson.**

19 ~~The attorney general shall be the chairperson of the commission. The board may elect from~~
20 ~~among its members such other officers as it deems necessary.~~

21 **12-1.1-6. Executive secretary.**

22 ~~The dean of the College of Pharmacy at the University of Rhode Island shall serve as the~~
23 ~~executive secretary of the commission. The executive secretary shall oversee the administration of~~
24 ~~the state crime laboratory, including all budgetary and personnel matters, and shall provide timely~~
25 ~~reports to the commission regarding all matters pertaining to the state crime laboratory.~~

26 **12-1.1-7. Meetings.**

27 ~~The commission shall meet at the call of its chairperson and at least four (4) times each~~
28 ~~year, the time and place for the meetings to be fixed by the chairperson.~~

29 **12-1.1-8. Powers and duties of commission.**

30 ~~The commission shall have the following powers and duties:~~

31 ~~(1) Establish goals, priorities, standards, policies, plans, programs, and budgets for the~~
32 ~~operation of the state crime laboratory;~~

33 ~~(2) Monitor the general operation of the state crime laboratory and evaluate its~~
34 ~~effectiveness;~~

1 ~~(3) Apply for, contract for, receive, and expend for its purposes any appropriations or grants~~
2 ~~from the state and/or its political subdivisions, the federal government, or any other source, public~~
3 ~~or private, in accordance with the appropriations process;~~

4 ~~(4)(i) Accept funds appropriated by the general assembly out of any money in the treasury~~
5 ~~not otherwise appropriated for effectuating the daily operation of the state crime laboratory;~~

6 ~~(ii) Accept any moneys made available through direct grants for its function and operation;~~

7 ~~(iii) Expend these sums of money for the purchase of equipment, payment of salaries,~~
8 ~~purchase of material, office supplies, and laboratory supplies, and for labor for publishing, for the~~
9 ~~benefit of law enforcement officers in the state of Rhode Island, for scientific advances in the field~~
10 ~~of criminalistics, and any other essentials that may be deemed necessary and expedient to the~~
11 ~~scientific criminal investigation and training of law enforcement officers and firefighters in modern~~
12 ~~scientific investigative techniques and research in the field of scientific criminal investigation;~~

13 ~~(5) Recommend legislation to the governor and legislature in the field of scientific criminal~~
14 ~~investigation;~~

15 ~~(6) Provide suitable badges and appropriate commissions to laboratory personnel in~~
16 ~~evidence of their authority;~~

17 ~~(7) Establish any and all committees it deems necessary to carry out the mission of the state~~
18 ~~crime laboratory;~~

19 ~~(8) Perform any other duties that may be necessary to carry out the purposes of this chapter~~
20 ~~and chapter 1.2.~~

21 ~~(9) Within ninety (90) days after the end of each fiscal year, the commission shall approve~~
22 ~~and submit an annual report to the governor, the speaker of the house of representatives, the~~
23 ~~president of the senate, and the secretary of state, of its activities during that fiscal year. The report~~
24 ~~shall provide: an operating statement summarizing meetings or hearings held, including meeting~~
25 ~~minutes, subjects addressed, decisions rendered, rules or regulations promulgated, studies~~
26 ~~conducted, policies and plans developed, approved, or modified, and programs administered or~~
27 ~~initiated; a consolidated financial statement of all funds received and expended including the source~~
28 ~~of the funds, a listing of any staff supported by these funds, and a summary of any clerical,~~
29 ~~administrative or technical support received; a summary of performance during the previous fiscal~~
30 ~~year including accomplishments, shortcomings and remedies; a synopsis of hearings, complaints,~~
31 ~~suspensions, or other legal matters related to the commission; a summary of any training courses~~
32 ~~held pursuant to this chapter; a briefing on anticipated activities in the upcoming fiscal year; and~~
33 ~~findings and recommendations for improvements. The report shall be posted electronically on the~~
34 ~~websites of the general assembly and the secretary of state pursuant to the provisions of § 42-20-~~

1 ~~8.2. The director of the department of administration shall be responsible for the enforcement of~~
2 ~~the provisions of this subsection;~~

3 ~~(10) To approve or disapprove the director and all other positions of the state crime~~
4 ~~laboratory appointed by the University of Rhode Island.~~

5 ~~(11) To conduct a training course for newly appointed and qualified members within six~~
6 ~~(6) months of their qualification or designation. The course shall be developed by the chair of the~~
7 ~~commission, be approved by the commission, and be conducted by the chair of the commission.~~
8 ~~The commission may approve the use of any commission and/or staff members and/or individuals~~
9 ~~to assist with training. The training course shall include instruction in the following areas: the~~
10 ~~provisions of chapters 42-46, 36-14 and 38-2; and the commission's rules and regulations. The~~
11 ~~director of the department of administration shall, within ninety (90) days of the effective date of~~
12 ~~this act [June 7, 2006], prepare and disseminate training materials relating to the provisions of~~
13 ~~chapters 42-46, 36-14, and 38-2.~~

14 ~~**12-1.1-9. Repealed.**~~

15 ~~**12-1.1-10. Cooperation of departments — Using facilities of the University of Rhode**~~
16 ~~**Island.**~~

17 ~~All other departments, agencies, and bodies of state government are authorized and~~
18 ~~directed to cooperate with and furnish any information that the commission shall require. The~~
19 ~~commission is directed in carrying out the provisions and purposes of this chapter and chapter 1.2~~
20 ~~to confer with the University of Rhode Island as to the continued utilization of facilities, scientific~~
21 ~~equipment, and personnel available.~~

22 ~~**12-1.1-11. Termination or modification of commission — Report to governor.**~~

23 ~~(a) For good cause, the commission, with the approval of the governor, shall determine a~~
24 ~~termination or modification date, and, upon that determination, the commission shall submit a~~
25 ~~report to the governor that will outline a plan for the orderly termination or modification of the~~
26 ~~commission.~~

27 ~~(b)(1) The report will be submitted at least four (4) months prior to the termination or~~
28 ~~modification date and will include, but not be limited to, a review of the performance and~~
29 ~~effectiveness of the commission.~~

30 ~~(2) The report will include a recommendation that the purpose of this chapter or chapter~~
31 ~~1.2 be reviewed or amended, that the commission be reorganized, or that this chapter or chapter 1.2~~
32 ~~be repealed.~~

33 SECTION 2. Chapter 12-1.2 of the General Laws entitled "State Crime Laboratory" is
34 hereby repealed in its entirety.

1 CHAPTER 12-1.2

2 State Crime Laboratory

3 **12-1.2-1. Creation.**

4 There shall be a state crime laboratory located at the University of Rhode Island.

5 **12-1.2-2. Jurisdiction.**

6 ~~The state crime laboratory shall have the authority to investigate any and all evidence~~
7 ~~relating to state or local crimes when requested by appropriate agencies.~~

8 **12-1.2-3. Functions of the state crime laboratory.**

9 The state crime laboratory shall be responsible for:

10 (1) ~~Technical services.~~

11 (i) ~~To examine and evaluate physical evidence collected at the scene of a crime or related~~
12 ~~to a crime. The examinations will be conducted in areas such as forensic serology, firearms,~~
13 ~~analyses of accelerants, explosives, scientific methodology in microscopy, including fiber, hair,~~
14 ~~blood, and plant microscopy, spectroscopy, ion emission, glass examination, tool impressions,~~
15 ~~fingerprint techniques, tire impressions, and other similar technology;~~

16 (ii) ~~To examine evidence upon submission by state and local fire departments and law~~
17 ~~enforcement agencies;~~

18 (iii) ~~To assure the safe custody of that evidence;~~

19 (iv) ~~To submit written reports of the results of examinations of evidence to the agency;~~

20 (v) ~~To request the services of qualified consultants when deemed necessary;~~

21 (vi) ~~To render expert court testimony when requested;~~

22 (vii) ~~To assist in the processing of a crime scene upon request to the director. Transportation~~
23 ~~as needed for this function should be provided by the agency requesting assistance.~~

24 (2) ~~Training.~~

25 (i) ~~To offer a training course in scientific criminal investigation each year to all~~
26 ~~enforcement divisions both state and local;~~

27 (ii) ~~To offer refresher or in-service courses in specialty areas of scientific criminal~~
28 ~~investigation;~~

29 (iii) ~~To conduct training dealing with police science, when requested, for each of the Rhode~~
30 ~~Island State Municipal Police Training Academy classes, the Providence Police Academy classes,~~
31 ~~and the Rhode Island State Police Academy classes.~~

32 (3) ~~Research. To conduct ongoing research in areas of the forensic sciences.~~

33 **12-1.2-4. Funding.**

34 The state crime laboratory shall be funded through the budget of the University of Rhode

1 ~~Island.~~

2 ~~**12-1.2-5. Director of state crime laboratory — Term.**~~

3 ~~(a) The crime laboratory shall be under the immediate supervision of a director, who shall~~
4 ~~be known as the “director — state crime laboratory” and who shall possess a Ph.D. degree or an~~
5 ~~equivalent combination of a M.S. degree and experience in an appropriate field and who has had~~
6 ~~forensic training or experience.~~

7 ~~(b) The director shall serve for a period of five (5) years and may be reappointed by the~~
8 ~~commission thereafter to subsequent five (5) year terms.~~

9 ~~**12-1.2-6. Candidates for director and other positions — Selection — Appointment —**~~

10 ~~**Dismissals.**~~

11 ~~(a) Candidates for the position of director and all other positions of the crime laboratory~~
12 ~~may be recommended to the commission by the executive secretary and/or other members of the~~
13 ~~commission as well as from all other sources.~~

14 ~~(b) The director and all other positions of the state crime laboratory shall be considered~~
15 ~~employees of the council on postsecondary education and shall be subject to all employment~~
16 ~~policies, practices, and procedures of the council on postsecondary education and the University of~~
17 ~~Rhode Island.~~

18 ~~(c) The appointive authority for the University of Rhode Island shall also be the appointing~~
19 ~~authority for the position of director and all other positions of the state crime laboratory subject to~~
20 ~~approval or disapproval by the commission.~~

21 ~~**12-1.2-7. Powers and duties of director.**~~

22 ~~(a) The director shall have general supervision over the administration of and shall enforce~~
23 ~~the provisions of this chapter. He or she shall recommend to the commission any rules and~~
24 ~~regulations that he or she may deem necessary to effectuate the provisions of this chapter and shall~~
25 ~~be responsible for the administration of the policies established by the commission.~~

26 ~~(b) The director shall be responsible for preparing an annual operating budget and~~
27 ~~submitting it to the dean of the College of Pharmacy at the University of Rhode Island, who will in~~
28 ~~turn submit it to the commission.~~

29 ~~(c) The director shall collect, develop, and maintain statistical information, records, and~~
30 ~~reports as the executive secretary or as the commission may determine relevant to its functions and~~
31 ~~transmit quarterly to the executive secretary or the commission a report of the operations of the~~
32 ~~state crime laboratory for the preceding quarter.~~

33 ~~(d) The director shall exercise all powers and perform all duties necessary and proper in~~
34 ~~carrying out his or her responsibilities that may be directed by the executive secretary or the~~

1 ~~commission.~~

2 ~~(e) The director shall timely provide records, reports or other information pertaining to the~~
3 ~~operation of the crime laboratory whenever requested by the executive secretary or the commission.~~

4 ~~**12-1.2-8 — 12-1.2-14. [Transferred.]**~~

5 SECTION 3. Section 23-1-8 of the General Laws in Chapter 23-1 entitled "Department of
6 Health" is hereby repealed.

7 ~~**23-1.2-8. Forensic scientist — Crime detection.**~~

8 ~~The director of health shall appoint in accordance with law a suitable and qualified forensic~~
9 ~~scientist to conduct examinations of evidence in connection with scientific crime detection, and for~~
10 ~~that purpose the director shall cooperate with the Rhode Island state police, the department of the~~
11 ~~attorney general, and other law enforcement agencies in the matter of scientific crime detection.~~

12 SECTION 4. Chapter 42-9 of the General Laws entitled "Department of Attorney General"
13 is hereby amended by adding thereto the following section:

14 **42-9-20. Rhode Island state crime laboratory.**

15 (a) Establishment.

16 (1) There is hereby established within the department of attorney general a Rhode Island
17 state crime laboratory. The head of the laboratory shall be the director of the Rhode Island state
18 crime laboratory, and shall be appointed by the attorney general and shall serve at the pleasure of
19 the attorney general.

20 (2) Whenever, in any general law, public law, or regulation, the words "state crime
21 laboratory," "state crime lab," or "crime lab" shall appear, the same shall be deemed to refer to and
22 mean the "Rhode Island state crime laboratory." Whenever, in any general law, public law or
23 regulation the words "state crime laboratory commission" shall appear, the same shall be deemed
24 to refer to and mean the "director of the Rhode Island state crime laboratory".

25 (b) Director and staff – Qualifications – Powers and duties.

26 (1) The state crime laboratory shall consist of a director, forensic scientists, and support
27 personnel, all of whom shall be appointed by the attorney general and shall serve at the pleasure of
28 the attorney general.

29 (2) The state crime laboratory shall be under the immediate supervision of a director, who
30 shall be known as the "director of the Rhode Island state crime laboratory" and who shall possess
31 a Ph.D. degree or an equivalent combination of a M.S. degree and experience in an appropriate
32 field and who has had forensic training or experience.

33 (i) The director shall have the powers and duties necessary to effectuate the implementation
34 and supervision of the state crime laboratory including, but not limited to:

1 (A) Establishing goals, priorities, standards, policies, staff qualifications, and programs for
2 the operation of the state crime laboratory;

3 (B) Monitoring the general operation of the state crime laboratory and evaluating its
4 effectiveness;

5 (C) Applying for, contracting for, receiving, and expending for its purposes any
6 appropriations or grants from the state and/or its political subdivisions, the federal government, or
7 any other source, public or private, in accordance with the appropriations process;

8 (D) Institute training programs for law enforcement officers and firefighters in modern
9 scientific investigative techniques and research in the field of scientific criminal investigation
10 including, but not limited to:

11 (I) A training course in scientific criminal investigation each year to all enforcement
12 divisions both state and local;

13 (II) A refresher or in-service courses in specialty areas of scientific criminal investigation;

14 (III) Training dealing with police science, when requested, for each of the Rhode Island
15 State municipal police training academy classes, the Providence police academy classes, and the
16 Rhode Island state police academy classes.

17 (E) Mandate training and continuing education for members of the state crime laboratory.

18 (F) Collect, develop, and maintain statistical information, records, and reports as the
19 director may determine relevant to its functions and transmit annually to the general assembly a
20 report of the operations of the state crime laboratory for the preceding year;

21 (G) Exercise all powers and perform any and all duties necessary to carry out their
22 responsibilities as may be directed by the attorney general.

23 (3) The director shall have general supervision over the administration of the state crime
24 laboratory and shall enforce the provisions of this section.

25 (c) Jurisdiction.

26 (1) The Rhode Island state crime laboratory shall have the authority to investigate any and
27 all evidence relating to federal, state or local crimes when requested by appropriate agencies.

28 (2) All other departments, agencies, and bodies of state government are authorized and
29 directed to cooperate with and furnish any information that the laboratory shall require.

30 (d) Functions. The state crime laboratory shall be responsible for:

31 (1) Technical services.

32 (i) Examine and evaluate physical evidence collected at the scene of a crime or related to
33 a crime. The examinations will be conducted in areas including, but not limited to, forensic
34 serology, firearms, analyses of accelerants, explosives, scientific methodology in microscopy,

1 including fiber, hair, blood, and plant microscopy, spectroscopy, ion emission, glass examination,
2 tool impressions, fingerprint techniques, tire impressions, controlled substances identification and
3 testing, forensic biology, impaired driving testing, DNA/CODIS testing, and other similar
4 technology;

5 (ii) Examine evidence upon submission by state and local fire departments and law
6 enforcement agencies;

7 (iii) Assure the safe custody of that evidence;

8 (iv) Submit written reports of the results of examinations of evidence to the agency;

9 (v) Request the services of qualified consultants when deemed necessary;

10 (vi) Render expert court testimony when requested;

11 (vii) Assist in the processing of a crime scene upon request to the director. Transportation
12 as needed for this function should be provided by the agency requesting assistance.

13 (2) DNA.

14 (i) Conduct examinations of evidence in connection with scientific crime detection, and for
15 that purpose the director shall cooperate with the Rhode Island state police, and other law
16 enforcement agencies, in the matter of scientific crime detection;

17 (ii) Carry out the duties and functions set forth in chapter 1.5 of title 12.

18 (3) Research. Conduct ongoing research in area of the forensic sciences.

19 (f) Standards. The state crime laboratory shall adopt and implement such standards as may
20 be applicable to its scope and purpose and as necessary to comply with its accreditation standards
21 by its accrediting agencies institutions.

22 (g) Rules and regulations. The attorney general may promulgate any rules and regulations
23 that they deem necessary to effectuate the provisions of this section and shall be responsible for the
24 administration of the policies established by the state crime laboratory or the attorney general.

25 (h) Severability. If any provision of this section or the application thereof to any person or
26 circumstances is held invalid, that invalidity shall not affect other provisions or applications of the
27 section, which can be given effect without the invalid provision or application, and to this end the
28 provisions of this section are declared to be severable.

29 SECTION 5. Sections 12-1.5-2, 12-1.5-3, 12-1.5-4, 12-1.5-5, 12-1.5-8, 12-1.5-10, 12-1.5-
30 11, 12-1.5-12, 12-1.5-13, 12-1.5-16 and 12-1.5-19 of the General Laws in Chapter 12-1.5 entitled
31 "DNA Detection of Sexual and Violent Offenders" are hereby amended to read as follows:

32 **12-1.5-2. Definitions.**

33 For the purposes of this chapter:

34 (1) "CODIS" is derived from combined DNA index system, the Federal Bureau of

1 Investigation's national DNA identification index system that allows the storage and exchange of
2 DNA records submitted by state and local forensic DNA laboratories;

3 (2) "DNA" means deoxyribonucleic acid, which is located in the cells of the body and
4 provides an individual's personal genetic blueprint. DNA encodes genetic information that is the
5 basis of human hereditary and forensic identification;

6 (3) "DNA record" means DNA identification information only, which is stored in the state
7 DNA database or the combined DNA index system for the purpose of generating investigative leads
8 or supporting statistical interpretation of DNA test results. The DNA record is the result obtained
9 from the DNA typing tests. The DNA record is comprised of the characteristics of a DNA sample
10 that are of value only in establishing the identity of individuals. The DNA record, however, does
11 not include the DNA sample, and the DNA record may never include the results of tests of any
12 structural genes. The results of all DNA identification tests on an individual's DNA sample are also
13 collectively referred to as the DNA profile of an individual;

14 (4) "DNA sample" means a blood or tissue sample provided by any person with respect to
15 offenses covered by this chapter, or submitted to the ~~department of health~~ [Rhode Island state crime](#)
16 laboratory pursuant to this chapter for DNA analysis or storage, or both;

17 (5) "F.B.I." means the Federal Bureau of Investigation;

18 (6) "State DNA databank" means the repository of DNA samples collected under this
19 chapter, that is administered by the ~~department of health~~ [Rhode Island state crime laboratory](#); and

20 (7) "State DNA database" means the state-level DNA identification record system to
21 support law enforcement that is administered by the ~~department of health~~ [Rhode Island state crime](#)
22 [laboratory](#) and that provides DNA records to the F.B.I. for storage and maintenance in CODIS. It
23 is the collective capability to store and maintain DNA records related to forensic casework, the
24 DNA records of those arrested for crimes of violence as defined in § 12-1.5-2 and/or convicted
25 offenders required to provide a DNA sample under state law, and anonymous DNA records used
26 for research, quality control, and other DNA analysis support systems.

27 (8) "Crimes of violence" include murder, manslaughter, first-degree arson, kidnapping
28 with intent to extort, robbery, larceny from the person, first-degree sexual assault, second-degree
29 sexual assault, first-and-second degree child molestation, assault with intent to murder, assault with
30 intent to rob, assault with intent to commit first-degree sexual assault, burglary, and entering a
31 dwelling house with intent to commit murder, robbery, sexual assault, or larceny.

32 **12-1.5-3. ~~Powers and duties of the department of health~~ Powers and duties of the**
33 **Rhode Island state crime laboratory.**

34 In addition to any other powers and duties conferred by this chapter, the ~~department of~~

1 ~~health~~ [Rhode Island state crime laboratory](#) shall:

2 (1) Be responsible for the policy management and administration of the state DNA database
3 and state DNA databank;

4 (2) Promulgate rules and regulations, ~~within one hundred and eighty (180) days of June 29,~~
5 ~~1998,~~ to carry out the provisions of this chapter; and

6 (3) Provide for liaison with the F.B.I. and other criminal justice agencies in regard to the
7 state's participation in CODIS or in any DNA database designated by the ~~department of health~~
8 [Rhode Island state crime laboratory](#).

9 **12-1.5-4. State DNA database.**

10 There is established the state DNA database. It shall be administered by the ~~department of~~
11 ~~health~~ [Rhode Island state crime laboratory](#) and provide DNA records for the F.B.I. for storage and
12 maintenance by CODIS. The state DNA database shall have the capability provided by computer
13 software and procedures administered by the ~~department of health~~ [Rhode Island state crime](#)
14 [laboratory](#) to store and maintain DNA records related to:

15 (1) Forensic casework, including the identification of missing persons;

16 (2) Individuals arrested for any crime of violence as defined in § 12-1.5-2 and convicted
17 felony offenders required to provide a DNA sample under this chapter; and

18 (3) Anonymous DNA records used for research on identification technologies or quality
19 control.

20 **12-1.5-5. State DNA databank.**

21 There is established the state DNA databank. It shall serve as the repository of DNA
22 samples collected under this chapter and shall be administered by the ~~department of health~~ [Rhode](#)
23 [Island state crime laboratory](#).

24 **12-1.5-8. DNA sample required upon arrest or conviction for any crime of violence.**

25 (a) Every person arrested for a crime of violence as defined in § 12-1.5-2, who pleads guilty
26 or nolo contendere, or is convicted of any felony shall have a DNA sample taken for analysis as
27 follows:

28 (1) Every person who is sentenced to a term of confinement to prison, for any crime of
29 violence as defined in § 12-1.5-2, or any felony shall not be released prior to the expiration of his
30 or her maximum term of confinement unless and until a DNA sample has been taken;

31 (2) Every person convicted of any crime of violence as defined in § 12-1.5-2, or any felony,
32 or who is sentenced thereon to any term of probation, or upon whose case sentencing is deferred
33 shall have a DNA sample taken for analysis by the ~~department of health~~ [Rhode Island state crime](#)
34 [laboratory](#) as a condition of any sentence which disposition will not involve an intake into prison.

1 (b) Every person arrested for any crime of violence as defined in § 12-1.5-2 shall, at the
2 time of booking, have a DNA sample taken for analysis and included in the Rhode Island DNA
3 database and DNA databank respectively as required by this chapter and every such person shall
4 be notified of his or her expungement rights under § 12-1.5-13 at or near the time the DNA sample
5 is taken.

6 (1) The DNA sample shall be submitted by the arresting authority to the ~~department of~~
7 ~~health~~ [Rhode Island state crime laboratory](#). The ~~department of health~~ [Rhode Island state crime](#)
8 [laboratory](#) shall not test or place the sample in the statewide DNA database prior to arraignment
9 unless one of the following conditions has been met:

10 (i) The arrestee appeared before any judicial officer for an arraignment and the judicial
11 officer made a finding that there was probable cause for the arrest; or

12 (ii) The defendant was released and then failed to appear for the initial hearing, or escaped
13 custody prior to appearing before a judicial officer.

14 (2) If all qualifying criminal charges are determined to be unsupported by probable cause:

15 (i) The DNA sample shall be immediately destroyed; and

16 (ii) Notice shall be sent by the prosecuting authority to the defendant and counsel of record
17 for the defendant that the sample was destroyed.

18 (3) The arrestee requests or consents to having their DNA sample processed prior to
19 arraignment for the sole purpose of having the sample checked against a sample that has been
20 processed from the crime scene or the hospital, and is related to the charges against the person.

21 (4) A second DNA sample shall be taken if needed to obtain sufficient DNA for the
22 statewide DNA database system or if ordered by the court for good cause shown.

23 (c) All DNA samples taken pursuant to this section shall be taken in accordance with
24 regulations promulgated by the ~~department of health~~ [Rhode Island state crime laboratory](#).

25 (d) The director of the ~~department of health~~ [Rhode Island state crime laboratory](#) shall
26 promulgate rules and regulations governing the periodic review of the DNA identification database
27 to determine whether or not the database contains DNA profiles that should not be in the database,
28 including the steps necessary to expunge any profiles that the ~~department~~ [Rhode Island state crime](#)
29 [laboratory](#) determines should not be in the database.

30 (e) The requirements of this chapter are mandatory. In the event that an arrestee's DNA
31 sample is not adequate for any reason, the arrestee shall provide another DNA sample for analysis.

32 (f) A sample does not need to be collected if the person has previously provided a sample
33 sufficient for DNA testing pursuant to the provisions of this section.

34 **12-1.5-10. Procedures for conduct, disposition and use of DNA analysis.**

1 The ~~department of health~~ [Rhode Island state crime laboratory](#) shall promulgate procedures
2 to be used in the collection, submission, identification, analysis, storage and disposition of DNA
3 samples and typing results of DNA samples submitted under this chapter. These procedures shall
4 meet or exceed the current standards for quality assurance and proficiency testing for DNA analysis
5 issued by the F.B.I. All DNA sample typing results, all DNA records and all DNA samples shall
6 be securely stored in the state of Rhode Island DNA database and DNA databank respectively, in
7 the following manner:

8 (1) All DNA sample typing results and the DNA records shall be stored in a computer
9 database after all personal identifiers have been removed. Further, these records shall be accessed
10 only through the use of an encryption code. The encryption code shall be confidential and only
11 those persons authorized by the ~~department of health~~ [Rhode Island state crime laboratory](#) and
12 charged with responsibilities under this chapter shall have access to these records and shall be given
13 the encryption code.

14 (2) All DNA samples shall be securely locked, with a coded locking system, in a DNA
15 databank at the ~~department of health~~ [Rhode Island state crime laboratory](#) and only the director of
16 the ~~department of health~~ [Rhode Island state crime laboratory](#) and ~~the head of the DNA laboratory~~
17 [necessary personnel](#) shall have access to these DNA samples to carry out the provisions of this
18 chapter.

19 (3) The ~~department of health~~ [Rhode Island state crime laboratory](#) is authorized to contract
20 with third parties for purposes of creating a DNA record only. Any third party contracting to carry
21 out the functions of this chapter shall be subject to the same restrictions and requirements of this
22 chapter, and DNA samples provided to third parties pursuant to this section shall have all personal
23 identification removed.

24 (4) Except as otherwise provided in § 12-1.5-11, DNA samples and DNA records collected
25 under this chapter shall be used only for law enforcement identification purposes or to assist in the
26 recovery of identification of human remains from disasters or for other humanitarian identification
27 purposes, including identification of missing persons; and

28 (5) DNA samples and DNA records collected under this chapter shall never be used under
29 the provisions of this chapter for the purpose of obtaining information about physical
30 characteristics, traits or predispositions for disease.

31 **12-1.5-11. DNA database exchange.**

32 It shall be the duty of the ~~department of health~~ [Rhode Island state crime laboratory](#) to collect
33 DNA samples, to receive, store, and to perform analysis or to contract for DNA typing analysis
34 with a qualified DNA laboratory that meets the regulations as established by the ~~department of~~

1 ~~health~~ [Rhode Island state crime laboratory](#), to classify and to file the DNA record of identification
2 characteristic profiles of DNA samples submitted under this chapter and to make the information
3 available as provided in this section. Access to the DNA databank shall be for identification
4 analysis only and shall be limited upon a showing of need to duly constituted federal, state and
5 local law enforcement agencies and their servicing forensic DNA laboratories and by court order
6 to the defendant or his or her attorney in a criminal case. The contents of the DNA record of
7 individuals in the state DNA database shall be made available:

8 (1) To criminal justice agencies or approved DNA forensic laboratories which serve these
9 agencies; or

10 (2) Upon written or electronic request and in furtherance of an official investigation by a
11 criminal justice agency or its designated forensic laboratory of a criminal offense or offender or
12 suspected offender;

13 (3) To prosecuting attorneys who are actively involved in a case in which the DNA record
14 of an individual is relevant; to grand juries and courts when such records are subpoenaed; to defense
15 attorneys when the DNA record is relevant to a pending case.

16 (4) The ~~department of health~~ [Rhode Island state crime laboratory](#) shall consistent with the
17 provisions of this chapter promulgate regulations governing the methods of obtaining information
18 from the state DNA database and CODIS and procedures for verification of the identity and
19 authority of the requester; and

20 (5) The ~~department of health~~ [Rhode Island state crime laboratory](#) may create a separate
21 population database comprised of DNA samples obtained under this chapter after all personal
22 identification is removed. The ~~department of health~~ [Rhode Island state crime laboratory](#) may share
23 or disseminate the population database with other criminal justice agencies or forensic DNA
24 laboratories that serve to assist the ~~department of health~~ [Rhode Island state crime laboratory](#) with
25 statistical databases. The population database may be made available to and searched by other
26 agencies participating in the CODIS system.

27 **12-1.5-12. Cancellation of authority to access or exchange DNA records.**

28 The ~~department of health~~ [Rhode Island state crime laboratory](#) shall be authorized, for good
29 cause shown, to revoke or suspend the right of a forensic DNA laboratory within this state to access
30 or exchange DNA identification records with criminal justice agencies.

31 **12-1.5-13. Expungement.**

32 (a) A person whose DNA record or profile has been included in the databank pursuant to
33 this act may request expungement on the grounds that the conviction on which authority for
34 including that person's DNA record or profile was based has been reversed. The ~~department of~~

1 ~~health~~ [Rhode Island state crime laboratory](#) shall purge all records and identifiable information in
2 the database pertaining to the person and destroy all samples from the person upon receipt of a
3 written request for expungement pursuant to this section and a certified copy of the final court order
4 reversing the conviction. The ~~department of health~~ [Rhode Island state crime laboratory](#) shall purge
5 and destroy all records and identifiable information in its database and all DNA samples taken
6 pursuant to this chapter from convicted persons upon official proof that the person has been
7 deceased for a period of at least three (3) years. Official proof shall include, but not be limited to,
8 a certified copy of a death certificate.

9 (b) If the offense for which a DNA sample has been taken pursuant to § 12-1.5-8(b) does
10 not result in a charge through information or indictment; or leads to voluntary dismissal of the
11 charge by the state, or dismissal by a court; or by a not guilty verdict after trial; or upon the vacating
12 or the reversal of a conviction in which the state does not retry the defendant or appeal the decision;
13 or loses such appeal upon hearing; or upon any plea or conviction of a lesser offense that would
14 not give rise to the mandatory sampling of the individual's DNA; the record or profile shall be
15 expunged from the state DNA identification database, regardless of any prior record for which
16 DNA sampling would not have been authorized, except pursuant to subsection (e) herein.

17 (1) The prosecuting authority shall, within thirty (30) days of an event listed in this
18 subsection, notify the ~~department of health~~ [Rhode Island state crime laboratory](#) of such event for
19 purposes of expunging the person's DNA record and any samples, analyses, or other documents
20 relating to the DNA testing of such individual in connection with the investigation, arrest, and/or
21 prosecution of the crime that resulted in the arrest of the person. The ~~department~~ [Rhode Island state](#)
22 [crime laboratory](#) shall, within thirty (30) days of receiving such notification, destroy and expunge
23 the person's DNA record and any samples, analyses, or other documents relating to the DNA testing
24 of such individual and shall notify the individual of such action.

25 (c) Upon receipt of a written request for expungement from the person whose DNA record
26 or profile has been included in the database pursuant to this chapter and notification of the
27 completion of a program of diversion or the completion of the term of a sentence of deferment, or
28 of the granting of a pardon, the record or profile shall be expunged from the state DNA
29 identification database, regardless of any prior record for which DNA sampling would not have
30 been authorized, except pursuant to subsection (e) herein, and such individual may apply to the
31 court for an order directing the expungement of their DNA record and any samples, analyses, or
32 other documents relating to the DNA testing of such individual in connection with the investigation,
33 arrest, and/or prosecution of the crime that resulted in the arrest of the person.

34 (d) A copy of the expungement motion shall be served on the attorney general and the

1 arresting police department with ten (10) days' notice prior to hearing, and an order directing
2 expungement shall be granted if the court finds any of the appropriate conditions of the prior
3 subsection are satisfied.

4 (e) The ~~department of health~~ [Rhode Island state crime laboratory](#) shall, by rule or
5 regulation, prescribe procedures to ensure that the DNA record in the state DNA identification
6 database, and any samples, analyses, or other documents relating to such record, whether in the
7 possession of the division, or any law enforcement or police agency, or any forensic DNA
8 laboratory, including any duplicates or copies thereof are destroyed, including any records from
9 CODIS. The director of ~~health~~ [the Rhode Island state crime laboratory](#) shall also adopt, by rule and
10 regulation, a procedure for the expungement in other appropriate circumstances of DNA records
11 contained in the database.

12 (f) No expungement shall be granted where an individual has a prior conviction requiring
13 a DNA sample, or a pending charge for which collection of a sample was authorized pursuant to
14 the provisions of this chapter.

15 (g) The detention, arrest, or conviction of a person based upon a database match or database
16 information is not invalidated if it is determined that the sample was obtained or placed in the
17 database by mistake. Any identification, warrant, or probable cause to arrest based upon a database
18 match is not invalidated due to a failure to expunge or a delay in expunging records.

19 (h) At the time of collection of the DNA sample upon arrest of any crime of violence as
20 defined in § 12-1.5-2, the individual from whom a sample is collected shall be given written notice
21 that the DNA record may be expunged and the DNA sample destroyed in accordance with this
22 section. In addition, ~~the department of health~~, the office of the attorney general, and the office of
23 the public defender shall post on their websites the expungement provisions of this section.

24 **12-1.5-16. Confidentiality of records.**

25 All DNA profiles and samples submitted to the ~~department of health~~ [Rhode Island state](#)
26 [crime laboratory](#) pursuant to this chapter shall be treated as confidential and exempt from the
27 provisions of chapter 2 of title 38 except as otherwise provided in this chapter.

28 **12-1.5-19. DNA offender audit.**

29 (a) The crime laboratory pursuant to ~~chapter 1.2 of this title~~ [§ 42-9-20](#) shall conduct an
30 audit of offender DNA profiles included on the state DNA databank pursuant to this chapter in
31 order to identify the number of DNA profiles that are missing from the databank which should have
32 been collected pursuant to this chapter. The crime laboratory shall support this effort as necessary
33 to comply with report deadlines.

34 (b) The audit shall initiate with offender DNA samples that were required to be collected

1 under this chapter, and shall include all samples required pursuant to § 12-1.5-7.

2 (c) A preliminary report including the overall number of estimated owed DNA samples
3 shall be reported to the general assembly promptly upon completion of the initial audit, due to the
4 significant risk to public safety of any failed collections. The preliminary report shall be provided
5 by January 1, 2024.

6 (d) A final report to further include additional details on types of offenses for which DNA
7 samples are owed, and an overview of where collection failures occurred shall be submitted no
8 later than December 31, 2024. Thereafter, an annual audit shall be completed and reported to the
9 general assembly no later than December 31 of each year.

10 SECTION 6. Section 12-5-2 of the General Laws in Chapter 12-5 entitled "Search
11 Warrants" is hereby amended to read as follows:

12 **12-5-2. Grounds for issuance.**

13 A warrant may be issued under this chapter to search for and seize any of the following:

14 (1) Property stolen or embezzled, or obtained by any false pretense, or pretenses, with
15 intent to cheat or defraud within this state, or elsewhere;

16 (2) Property kept, suffered to be kept, concealed, deposited, or possessed in violation of
17 law, or for the purpose of violating the law;

18 (3) Property designed or intended for use, or that is or has been used, in violation of law,
19 or as a means of committing a violation of law;

20 (4) Property that is evidence of the commission of a crime;

21 (5) Samples of blood, saliva, hair, bodily tissues, bodily fluids, or dental impressions from
22 the body of a person that may yield evidence of the identity of the perpetrator of a crime when
23 subjected to scientific or other forensic analysis. The foregoing samples, and the results of any
24 scientific or other forensic analysis, shall be admissible in all criminal proceedings, subject to
25 application of the rules of evidence and criminal procedure. When any of the foregoing samples
26 are seized for scientific or forensic analysis, the seizure shall be conducted in accordance with the
27 regulations, guidelines, or protocols of ~~the department of health or~~ the state crime laboratory, as
28 may be appropriate under the circumstances;

29 (6) Samples of blood or breath that may yield evidence of the presence of alcohol or a
30 controlled substance when subjected to a chemical test, as contemplated in § 31-27-2. When any
31 of the foregoing samples are seized for purposes of performing the aforementioned chemical test,
32 the seizure shall be conducted in accordance with the regulations of the ~~department of health~~ [Rhode
33 Island state crime laboratory](#) that apply to the consensual collection of such a sample for purposes
34 of the chemical test contemplated by § 31-27-2; or

1 (7) Property of a respondent under chapter 8.3 of title 8 where firearms may be under the
2 possession, custody, or control of the respondent.

3 SECTION 7. Sections 31-27-2, 31-27-2.1, 31-27-2.3, 31-27-2.5 and 31-27-2.9 of the
4 General Laws in Chapter 31-27 entitled "Motor Vehicle Offenses" are hereby amended to read as
5 follows:

6 **31-27-2. Driving under influence of liquor or drugs. [Effective July 1, 2025.]**

7 (a) Whoever drives or otherwise operates any vehicle in the state while under the influence
8 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of
9 title 21, or any combination of these, shall be guilty of a misdemeanor, except as provided in
10 subsection (d)(3), and shall be punished as provided in subsection (d) of this section.

11 (b)(1) Any person charged under subsection (a), whose blood alcohol concentration is eight
12 one-hundredths of one percent (.08%) or more by weight, as shown by a chemical analysis of a
13 blood, breath, or urine sample, shall be guilty of violating subsection (a). This provision shall not
14 preclude a conviction based on other admissible evidence, including the testimony of a drug
15 recognition expert or evaluator, certified pursuant to training approved by the Rhode Island
16 department of transportation office on highway safety. Proof of guilt under this section may also
17 be based on evidence that the person charged was under the influence of intoxicating liquor, drugs,
18 toluene, or any controlled substance defined in chapter 28 of title 21, or any combination of these,
19 to a degree that rendered the person incapable of safely operating a vehicle. The fact that any person
20 charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not
21 constitute a defense against any charge of violating this section.

22 (2) [Deleted by P.L. 2021, ch. 170, § 1 and P.L. 2021, ch. 171, § 1.]

23 (c) In any criminal prosecution for a violation of subsection (a), evidence as to the amount
24 of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of title 21, or
25 any combination of these, in the defendant's blood at the time alleged as shown by a chemical
26 analysis of the defendant's breath, blood, saliva or urine or other bodily substance, shall be
27 admissible and competent, provided that evidence is presented that the following conditions have
28 been complied with:

29 (1) The defendant has consented to the taking of the test upon which the analysis is made.
30 Evidence that the defendant had refused to submit to the test shall not be admissible unless the
31 defendant elects to testify.

32 (2) A true copy of the report of the test result was hand delivered at the location of the test
33 or mailed within seventy-two (72) hours of the taking of the test to the person submitting to a breath
34 test.

1 (3) Any person submitting to a chemical test of blood, urine, saliva or other body fluids
2 shall have a true copy of the report of the test result mailed to him or her within thirty (30) days
3 following the taking of the test.

4 (4) The test was performed according to methods and with equipment approved by the
5 director of the ~~department of health of the state of~~ Rhode Island [state crime laboratory](#) and by an
6 authorized individual.

7 (5) Equipment used for the conduct of the tests by means of breath analysis had been tested
8 for accuracy within thirty (30) days preceding the test by personnel qualified as hereinbefore
9 provided, and breathalyzer operators shall be qualified and certified by the ~~department of health~~
10 [Rhode Island state crime laboratory](#) within three hundred sixty-five (365) days of the test.

11 (6) The person arrested and charged with operating a motor vehicle while under the
12 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of
13 title 21 or any combination of these in violation of subsection (a), was afforded the opportunity to
14 have an additional chemical test. The officer arresting or so charging the person shall have informed
15 the person of this right and afforded him or her a reasonable opportunity to exercise this right, and
16 a notation to this effect is made in the official records of the case in the police department. Refusal
17 to permit an additional chemical test shall render incompetent and inadmissible in evidence the
18 original report.

19 (d)(1)(i) Every person found to have violated subsection (b)(1) shall be sentenced as
20 follows: for a first violation whose blood alcohol concentration is eight one-hundredths of one
21 percent (.08%), but less than one-tenth of one percent (.1%), by weight, or who has a blood presence
22 of any scheduled controlled substance as defined in chapter 28 of title 21, shall be subject to a fine
23 of not less than one hundred dollars (\$100), nor more than three hundred dollars (\$300); shall be
24 required to perform ten (10) to sixty (60) hours of public community restitution, and/or shall be
25 imprisoned for up to one year. The sentence may be served in any unit of the adult correctional
26 institutions in the discretion of the sentencing judge and/or shall be required to attend a special
27 course on driving while intoxicated or under the influence of a controlled substance; provided,
28 however, that the court may permit a servicemember or veteran to complete any court-approved
29 counseling program administered or approved by the Veterans' Administration, and his or her
30 driver's license shall be suspended for thirty (30) days up to one hundred eighty (180) days. The
31 sentencing judge or magistrate may prohibit that person from operating a motor vehicle, pursuant
32 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system
33 and/or blood and urine testing as provided in § 31-27-2.8.

34 (ii) Every person convicted of a first violation whose blood alcohol concentration is one-

1 tenth of one percent (.1%) by weight or above, but less than fifteen hundredths of one percent
2 (.15%), or whose blood alcohol concentration is unknown, shall be subject to a fine of not less than
3 one hundred (\$100) dollars, nor more than four hundred dollars (\$400), and shall be required to
4 perform ten (10) to sixty (60) hours of public community restitution and/or shall be imprisoned for
5 up to one year. The sentence may be served in any unit of the adult correctional institutions in the
6 discretion of the sentencing judge. The person's driving license shall be suspended for a period of
7 three (3) months to twelve (12) months. The sentencing judge shall require attendance at a special
8 course on driving while intoxicated or under the influence of a controlled substance and/or
9 alcoholic or drug treatment for the individual; provided, however, that the court may permit a
10 servicemember or veteran to complete any court-approved counseling program administered or
11 approved by the Veterans' Administration. The sentencing judge or magistrate may prohibit that
12 person from operating a motor vehicle that is not equipped with an ignition interlock system as
13 provided in § 31-27-2.8.

14 (iii) Every person convicted of a first offense whose blood alcohol concentration is fifteen
15 hundredths of one percent (.15%) or above, or who is under the influence of a drug, toluene, or any
16 controlled substance as defined in subsection (b)(1), shall be subject to a fine of five hundred dollars
17 (\$500) and shall be required to perform twenty (20) to sixty (60) hours of public community
18 restitution and/or shall be imprisoned for up to one year. The sentence may be served in any unit
19 of the adult correctional institutions in the discretion of the sentencing judge. The person's driving
20 license shall be suspended for a period of three (3) months to eighteen (18) months. The sentencing
21 judge shall require attendance at a special course on driving while intoxicated or under the influence
22 of a controlled substance and/or alcohol or drug treatment for the individual; provided, however,
23 that the court may permit a servicemember or veteran to complete any court-approved counseling
24 program administered or approved by the Veterans' Administration. The sentencing judge or
25 magistrate shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9)
26 or (d)(10) of this section, that is not equipped with an ignition interlock system and/or blood and
27 urine testing as provided in § 31-27-2.8.

28 (2)(i) Every person convicted of a second violation within a ten-year (10) period with a
29 blood alcohol concentration of eight one-hundredths of one percent (.08%) or above, but less than
30 fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is unknown, or
31 who has a blood presence of any controlled substance as defined in chapter 28 of title 21, and every
32 person convicted of a second violation within a ten-year (10) period, regardless of whether the prior
33 violation and subsequent conviction was a violation and subsequent conviction under this statute
34 or under the driving under the influence of liquor or drugs statute of any other state, shall be subject

1 to a mandatory fine of four hundred dollars (\$400). The person's driving license shall be suspended
2 for a period of one year to two (2) years, and the individual shall be sentenced to not less than ten
3 (10) days, nor more than one year, in jail. The sentence may be served in any unit of the adult
4 correctional institutions in the discretion of the sentencing judge; however, not less than forty-eight
5 (48) hours of imprisonment shall be served consecutively. The sentencing judge shall require
6 alcohol or drug treatment for the individual; provided, however, that the court may permit a
7 servicemember or veteran to complete any court-approved counseling program administered or
8 approved by the Veterans' Administration and shall prohibit that person from operating a motor
9 vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition
10 interlock system and/or blood and urine testing as provided in § 31-27-2.8.

11 (ii) Every person convicted of a second violation within a ten-year (10) period whose blood
12 alcohol concentration is fifteen hundredths of one percent (.15%) or above, by weight as shown by
13 a chemical analysis of a blood, breath, or urine sample, or who is under the influence of a drug,
14 toluene, or any controlled substance as defined in subsection (b)(1), shall be subject to mandatory
15 imprisonment of not less than six (6) months, nor more than one year; a mandatory fine of not less
16 than one thousand dollars (\$1,000); and a mandatory license suspension for a period of two (2)
17 years from the date of completion of the sentence imposed under this subsection. The sentencing
18 judge shall require alcohol or drug treatment for the individual; provided, however, that the court
19 may permit a servicemember or veteran to complete any court approved counseling program
20 administered or approved by the Veterans' Administration. The sentencing judge or magistrate
21 shall prohibit that person from operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10)
22 of this section, that is not equipped with an ignition interlock system and/or blood and urine testing
23 as provided in § 31-27-2.8.

24 (3)(i) Every person convicted of a third or subsequent violation within a ten-year (10)
25 period with a blood alcohol concentration of eight one-hundredths of one percent (.08%) or above,
26 but less than fifteen hundredths of one percent (.15%), or whose blood alcohol concentration is
27 unknown or who has a blood presence of any scheduled controlled substance as defined in chapter
28 28 of title 21, regardless of whether any prior violation and subsequent conviction was a violation
29 and subsequent conviction under this statute or under the driving under the influence of liquor or
30 drugs statute of any other state, shall be guilty of a felony and be subject to a mandatory fine of
31 four hundred (\$400) dollars. The person's driving license shall be suspended for a period of two
32 (2) years to three (3) years, and the individual shall be sentenced to not less than one year and not
33 more than three (3) years in jail. The sentence may be served in any unit of the adult correctional
34 institutions in the discretion of the sentencing judge; however, not less than forty-eight (48) hours

1 of imprisonment shall be served consecutively. The sentencing judge shall require alcohol or drug
2 treatment for the individual; provided, however, that the court may permit a servicemember or
3 veteran to complete any court-approved counseling program administered or approved by the
4 Veterans' Administration, and shall prohibit that person from operating a motor vehicle, pursuant
5 to subsection (d)(9) or (d)(10) of this section, that is not equipped with an ignition interlock system
6 and/or blood and urine testing as provided in § 31-27-2.8.

7 (ii) Every person convicted of a third or subsequent violation within a ten-year (10) period
8 whose blood alcohol concentration is fifteen hundredths of one percent (.15%) above by weight as
9 shown by a chemical analysis of a blood, breath, or urine sample, or who is under the influence of
10 a drug, toluene, or any controlled substance as defined in subsection (b)(1), shall be subject to
11 mandatory imprisonment of not less than three (3) years, nor more than five (5) years; a mandatory
12 fine of not less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000);
13 and a mandatory license suspension for a period of three (3) years from the date of completion of
14 the sentence imposed under this subsection. The sentencing judge shall require alcohol or drug
15 treatment for the individual. The sentencing judge or magistrate shall prohibit that person from
16 operating a motor vehicle, pursuant to subsection (d)(9) or (d)(10) of this section, that is not
17 equipped with an ignition interlock system and/or blood and urine testing as provided in § 31-27-
18 2.8.

19 (iii) In addition to the foregoing penalties, every person convicted of a third or subsequent
20 violation within a ten-year (10) period, regardless of whether any prior violation and subsequent
21 conviction was a violation and subsequent conviction under this statute or under the driving under
22 the influence of liquor or drugs statute of any other state, shall be subject, in the discretion of the
23 sentencing judge, to having the vehicle owned and operated by the violator seized and sold by the
24 state of Rhode Island, with all funds obtained by the sale to be transferred to the general fund.

25 (4) Whoever drives or otherwise operates any vehicle in the state while under the influence
26 of any intoxicating liquor, drugs, toluene, or any controlled substance as defined in chapter 28 of
27 title 21, or any combination of these, when his or her license to operate is suspended, revoked, or
28 cancelled for operating under the influence of a narcotic drug or intoxicating liquor, shall be guilty
29 of a felony punishable by imprisonment for not more than three (3) years and by a fine of not more
30 than three thousand dollars (\$3,000). The court shall require alcohol and/or drug treatment for the
31 individual; provided, the penalties provided for in this subsection (d)(4) shall not apply to an
32 individual who has surrendered his or her license and served the court-ordered period of suspension,
33 but who, for any reason, has not had his or her license reinstated after the period of suspension,
34 revocation, or suspension has expired; provided, further, the individual shall be subject to the

1 provisions of subsection (d)(2)(i), (d)(2)(ii), (d)(3)(i), (d)(3)(ii), or (d)(3)(iii) regarding subsequent
2 offenses, and any other applicable provision of this section.

3 (5)(i) For purposes of determining the period of license suspension, a prior violation shall
4 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.1.

5 (ii) Any person over the age of eighteen (18) who is convicted under this section for
6 operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of
7 these, while a child under the age of thirteen (13) years was present as a passenger in the motor
8 vehicle when the offense was committed shall be subject to immediate license suspension pending
9 prosecution. Any person convicted of violating this section shall be guilty of a misdemeanor for a
10 first offense and may be sentenced to a term of imprisonment of not more than one year and a fine
11 not to exceed one thousand dollars (\$1,000). Any person convicted of a second or subsequent
12 offense shall be guilty of a felony offense and may be sentenced to a term of imprisonment of not
13 more than five (5) years and a fine not to exceed five thousand dollars (\$5,000). The sentencing
14 judge shall also order a license suspension of up to two (2) years, require attendance at a special
15 course on driving while intoxicated or under the influence of a controlled substance, and alcohol
16 or drug education and/or treatment. The individual may also be required to pay a highway
17 assessment fee of no more than five hundred dollars (\$500) and the assessment shall be deposited
18 in the general fund.

19 (6)(i) Any person convicted of a violation under this section shall pay a highway
20 assessment fine of five hundred dollars (\$500) that shall be deposited into the general fund. The
21 assessment provided for by this subsection shall be collected from a violator before any other fines
22 authorized by this section.

23 (ii) Any person convicted of a violation under this section shall be assessed a fee of eighty-
24 six dollars (\$86).

25 (7)(i) If the person convicted of violating this section is under the age of eighteen (18)
26 years, for the first violation he or she shall be required to perform ten (10) to sixty (60) hours of
27 public community restitution and the juvenile's driving license shall be suspended for a period of
28 six (6) months, and may be suspended for a period up to eighteen (18) months. The sentencing
29 judge shall also require attendance at a special course on driving while intoxicated or under the
30 influence of a controlled substance and alcohol or drug education and/or treatment for the juvenile.
31 The juvenile may also be required to pay a highway assessment fine of no more than five hundred
32 dollars (\$500) and the assessment imposed shall be deposited into the general fund.

33 (ii) If the person convicted of violating this section is under the age of eighteen (18) years,
34 for a second or subsequent violation regardless of whether any prior violation and subsequent

1 conviction was a violation and subsequent conviction under this statute or under the driving under
2 the influence of liquor or drugs statute of any other state, he or she shall be subject to a mandatory
3 suspension of his or her driving license until such time as he or she is twenty-one (21) years of age
4 and may, in the discretion of the sentencing judge, also be sentenced to the Rhode Island training
5 school for a period of not more than one year and/or a fine of not more than five hundred dollars
6 (\$500).

7 (8) Any person convicted of a violation under this section may undergo a clinical
8 assessment at the community college of Rhode Island's center for workforce and community
9 education. Should this clinical assessment determine problems of alcohol, drug abuse, or
10 psychological problems associated with alcoholic or drug abuse, this person shall be referred to an
11 appropriate facility, licensed or approved by the department of behavioral healthcare,
12 developmental disabilities and hospitals, for treatment placement, case management, and
13 monitoring. In the case of a servicemember or veteran, the court may order that the person be
14 evaluated through the Veterans' Administration. Should the clinical assessment determine
15 problems of alcohol, drug abuse, or psychological problems associated with alcohol or drug abuse,
16 the person may have their treatment, case management, and monitoring administered or approved
17 by the Veterans' Administration.

18 (9) Notwithstanding any other sentencing and disposition provisions contained in this
19 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
20 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
21 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
22 or other reliable indicia or articulable conditions thereof, but not intoxicating liquor based on a
23 preliminary breath test, results from a breathalyzer that indicates no blood alcohol concentration,
24 or both, the judge or magistrate may exercise his or her discretion and eliminate the requirement of
25 an ignition interlock system; provided, that blood and/or urine testing is mandated as a condition
26 to operating a motor vehicle as provided in § 31-27-2.8.

27 (10) Notwithstanding any other sentencing and disposition provisions contained in this
28 chapter, if the judge or magistrate makes a finding beyond a reasonable doubt that a motorist was
29 operating a vehicle in the state while under the influence of drugs, toluene, or any controlled
30 substance as evidenced by the presence of controlled substances on or about the person or vehicle,
31 or other reliable indicia or articulable conditions thereof and intoxicating liquor based on a
32 preliminary breath test, results from a breathalyzer that indicates blood alcohol concentration, or
33 both, the judge or magistrate may require an ignition interlock system in addition to blood and/or
34 urine testing as a condition to operating a motor vehicle as provided in § 31-27-2.8.

1 (e) Percent by weight of alcohol in the blood shall be based upon milligrams of alcohol per
2 one hundred cubic centimeters (100 cc) of blood.

3 (f)(1) There is established an alcohol and drug safety unit within the division of motor
4 vehicles to administer an alcohol safety action program. The program shall provide for placement
5 and follow-up for persons who are required to pay the highway safety assessment. The alcohol and
6 drug safety action program will be administered in conjunction with alcohol and drug programs
7 licensed by the department of behavioral healthcare, developmental disabilities and hospitals.

8 (2) Persons convicted under the provisions of this chapter shall be required to attend a
9 special course on driving while intoxicated or under the influence of a controlled substance, and/or
10 participate in an alcohol or drug treatment program, which course and programs must meet the
11 standards established by the Rhode Island department of behavioral healthcare, developmental
12 disabilities and hospitals; provided, however, that the court may permit a servicemember or veteran
13 to complete any court-approved counseling program administered or approved by the Veterans'
14 Administration. The course shall take into consideration any language barrier that may exist as to
15 any person ordered to attend, and shall provide for instruction reasonably calculated to
16 communicate the purposes of the course in accordance with the requirements of the subsection.
17 Any costs reasonably incurred in connection with the provision of this accommodation shall be
18 borne by the person being retrained. A copy of any violation under this section shall be forwarded
19 by the court to the alcohol and drug safety unit. In the event that persons convicted under the
20 provisions of this chapter fail to attend and complete the above course or treatment program, as
21 ordered by the judge, then the person may be brought before the court, and after a hearing as to
22 why the order of the court was not followed, may be sentenced to jail for a period not exceeding
23 one year.

24 (3) The alcohol and drug safety action program within the division of motor vehicles shall
25 be funded by general revenue appropriations.

26 (g) The director of the ~~department of health~~ [Rhode Island state crime laboratory](#) is
27 empowered to make and file with the secretary of state regulations that prescribe the techniques
28 and methods of chemical analysis of the person's body fluids or breath and the qualifications and
29 certification of individuals authorized to administer this testing and analysis.

30 (h) Jurisdiction for misdemeanor violations of this section shall be with the district court
31 for persons eighteen (18) years of age or older and to the family court for persons under the age of
32 eighteen (18) years. The courts shall have full authority to impose any sentence authorized and to
33 order the suspension of any license for violations of this section. Trials in superior court are not
34 required to be scheduled within thirty (30) days of the arraignment date.

1 (i) No fines, suspensions, assessments, alcohol or drug treatment programs, course on
2 driving while intoxicated or under the influence of a controlled substance, public community
3 restitution, or jail provided for under this section can be suspended.

4 (j) An order to attend a special course on driving while intoxicated, that shall be
5 administered in cooperation with a college or university accredited by the state, shall include a
6 provision to pay a reasonable tuition for the course in an amount not less than twenty-five dollars
7 (\$25.00), and a fee of one hundred seventy-five dollars (\$175), which fee shall be deposited into
8 the general fund.

9 (k) For the purposes of this section, any test of a sample of blood, breath, or urine for the
10 presence of alcohol that relies in whole or in part upon the principle of infrared light absorption is
11 considered a chemical test.

12 (l) If any provision of this section, or the application of any provision, shall for any reason
13 be judged invalid, such a judgment shall not affect, impair, or invalidate the remainder of the
14 section, but shall be confined in this effect to the provision or application directly involved in the
15 controversy giving rise to the judgment.

16 (m) For the purposes of this section, “servicemember” means a person who is presently
17 serving in the armed forces of the United States, including the Coast Guard, a reserve component
18 thereof, or the National Guard. “Veteran” means a person who has served in the armed forces,
19 including the Coast Guard of the United States, a reserve component thereof, or the National Guard,
20 and has been discharged under other than dishonorable conditions.

21 **31-27-2.1. Refusal to submit to chemical test. [Effective July 1, 2025.]**

22 (a) Any person who operates a motor vehicle within this state shall be deemed to have
23 given his or her consent to chemical tests of his or her breath, blood, saliva and/or urine for the
24 purpose of determining the chemical content of his or her body fluids or breath. No more than two
25 (2) complete tests, one for the presence of intoxicating liquor and one for the presence of toluene
26 or any controlled substance, as defined in § 21-28-1.02, shall be administered at the direction of a
27 law enforcement officer having reasonable grounds to believe the person to have been driving a
28 motor vehicle within this state while under the influence of intoxicating liquor, toluene, or any
29 controlled substance, as defined in chapter 28 of title 21, or any combination of these. The director
30 of the ~~department of health~~ [Rhode Island state crime laboratory](#) is empowered to make and file,
31 with the secretary of state, regulations that prescribe the techniques and methods of chemical
32 analysis of the person’s body fluids or breath and the qualifications and certification of individuals
33 authorized to administer the testing and analysis.

34 (b) If a person, for religious or medical reasons, cannot be subjected to blood tests, the

1 person may file an affidavit with the division of motor vehicles stating the reasons why he or she
2 cannot be required to take blood tests and a notation to this effect shall be made on his or her
3 license. If that person is asked to submit to chemical tests as provided under this chapter, the person
4 shall only be required to submit to chemical tests of his or her breath, saliva or urine. When a person
5 is requested to submit to blood tests, only a physician or registered nurse, or a medical technician
6 certified under regulations promulgated by the director of the ~~department of health~~ [Rhode Island](#)
7 [state crime laboratory](#), may withdraw blood for the purpose of determining the alcoholic content in
8 it. This limitation shall not apply to the taking of breath, saliva or urine specimens. The person
9 tested shall be permitted to have a physician of his or her own choosing, and at his or her own
10 expense, administer chemical tests of his or her breath, blood, saliva and/or urine in addition to the
11 tests administered at the direction of a law enforcement officer. If a person, having been placed
12 under arrest, refuses upon the request of a law enforcement officer to submit to the tests, as provided
13 in § 31-27-2, none shall be given.

14 (1) At the initial traffic tribunal appearance, the magistrate shall review the incident, action,
15 and/or arrest reports submitted by the law enforcement officer to determine if there exists
16 reasonable grounds to believe that the person had been driving a motor vehicle while under the
17 influence of intoxicating liquor, toluene, or any controlled substance as defined in chapter 28 of
18 title 21, or any combination thereof. The magistrate shall also determine if the person had been
19 informed of the penalties incurred as a result of failing to submit to a chemical test as provided in
20 this section and that the person had been informed of the implied consent notice contained in
21 subsection (c)(10) of this section. For the purpose of this subsection only, “driving a motor vehicle
22 while under the influence of any controlled substance as defined in chapter 28 of title 21” shall be
23 indicated by the presence or aroma of a controlled substance on or about the person or vehicle of
24 the individual refusing the chemical test or other reliable indicia or articulable conditions that the
25 person was impaired due to their intake of a controlled substance.

26 (2) If the magistrate determines that subsection (b)(1) of this section has been satisfied they
27 shall promptly order that the person’s operator’s license or privilege to operate a motor vehicle in
28 this state be immediately suspended. Said suspension shall be subject to the hardship provisions
29 enumerated in § 31-27-2.8.

30 (c) A traffic tribunal judge or magistrate, or a district court judge or magistrate, pursuant
31 to the terms of subsection (d) of this section, shall order as follows:

32 (1) Impose, for the first violation, a fine in the amount of two hundred dollars (\$200) to
33 five hundred dollars (\$500) and shall order the person to perform ten (10) to sixty (60) hours of
34 public community restitution. The person’s driving license in this state shall be suspended for a

1 period of six (6) months to one year. The traffic tribunal judge or magistrate shall require attendance
2 at a special course on driving while intoxicated or under the influence of a controlled substance
3 and/or alcohol or drug treatment for the individual. The traffic tribunal judge or magistrate may
4 prohibit that person from operating a motor vehicle that is not equipped with an ignition interlock
5 system and/or blood and urine testing as provided in § 31-27-2.8.

6 (2) Every person convicted of a second violation within a ten-year (10) period, except with
7 respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor; shall be
8 imprisoned for not more than six (6) months; shall pay a fine in the amount of six hundred dollars
9 (\$600) to one thousand dollars (\$1,000); perform sixty (60) to one hundred (100) hours of public
10 community restitution; and the person's driving license in this state shall be suspended for a period
11 of one year to two (2) years. The judge or magistrate shall require alcohol and/or drug treatment
12 for the individual. The sentencing judge or magistrate shall prohibit that person from operating a
13 motor vehicle that is not equipped with an ignition interlock system and/or blood and urine testing
14 as provided in § 31-27-2.8.

15 (3) Every person convicted for a third or subsequent violation within a ten-year (10) period,
16 except with respect to cases of refusal to submit to a blood test, shall be guilty of a misdemeanor;
17 and shall be imprisoned for not more than one year; fined eight hundred dollars (\$800) to one
18 thousand dollars (\$1,000); shall perform not less than one hundred (100) hours of public community
19 restitution; and the person's operator's license in this state shall be suspended for a period of two
20 (2) years to five (5) years. The sentencing judge or magistrate shall prohibit that person from
21 operating a motor vehicle that is not equipped with an ignition interlock system and/or blood and
22 urine testing as provided in § 31-27-2.8. The judge or magistrate shall require alcohol or drug
23 treatment for the individual. Provided, that prior to the reinstatement of a license to a person charged
24 with a third or subsequent violation within a three-year (3) period, a hearing shall be held before a
25 judge or magistrate. At the hearing, the judge or magistrate shall review the person's driving record,
26 his or her employment history, family background, and any other pertinent factors that would
27 indicate that the person has demonstrated behavior that warrants the reinstatement of his or her
28 license.

29 (4) For a second violation within a ten-year (10) period with respect to a case of a refusal
30 to submit to a blood test, a fine in the amount of six hundred dollars (\$600) to one thousand dollars
31 (\$1,000); the person shall perform sixty (60) to one hundred (100) hours of public community
32 restitution; and the person's driving license in this state shall be suspended for a period of two (2)
33 years. The judicial officer shall require alcohol and/or drug treatment for the individual. The
34 sentencing judicial officer shall prohibit that person from operating a motor vehicle that is not

1 equipped with an ignition interlock system as provided in § 31-27-2.8. Such a violation with respect
2 to refusal to submit to a chemical blood test shall be a civil offense.

3 (5) For a third or subsequent violation within a ten-year (10) period with respect to a case
4 of a refusal to submit to a blood test, a fine in the amount of eight hundred dollars (\$800) to one
5 thousand dollars (\$1,000); the person shall perform not less than one hundred (100) hours of public
6 community restitution; and the person's driving license in this state shall be suspended for a period
7 of two (2) to five (5) years. The sentencing judicial officer shall prohibit that person from operating
8 a motor vehicle that is not equipped with an ignition interlock system as provided in § 31-27-2.8.
9 The judicial officer shall require alcohol and/or drug treatment for the individual. Such a violation
10 with respect to refusal to submit to a chemical test of blood shall be a civil offense. Provided, that
11 prior to the reinstatement of a license to a person charged with a third or subsequent violation within
12 a three-year (3) period, a hearing shall be held before a judicial officer. At the hearing, the judicial
13 officer shall review the person's driving record, his or her employment history, family background,
14 and any other pertinent factors that would indicate that the person has demonstrated behavior that
15 warrants the reinstatement of their license.

16 (6) For purposes of determining the period of license suspension, a prior violation shall
17 constitute any charge brought and sustained under the provisions of this section or § 31-27-2.

18 (7) In addition to any other fines, a highway safety assessment of five hundred dollars
19 (\$500) shall be paid by any person found in violation of this section, the assessment to be deposited
20 into the general fund. The assessment provided for by this subsection shall be collected from a
21 violator before any other fines authorized by this section.

22 (8) In addition to any other fines and highway safety assessments, a two-hundred-dollar
23 (\$200) assessment shall be paid by any person found in violation of this section to support the
24 ~~department of health's~~ [Rhode Island state crime laboratory's](#) chemical testing programs outlined in
25 §§ 31-27-2(f) and 31-27-2(g), that shall be deposited as general revenues, not restricted receipts.

26 (9) No fines, suspensions, assessments, alcohol or drug treatment programs, course on
27 driving while intoxicated or under the influence of a controlled substance, or public community
28 restitution provided for under this section can be suspended.

29 (10) Implied consent notice for persons eighteen (18) years of age or older: "Rhode Island
30 law requires you to submit to a chemical test of your blood, breath, saliva, or urine for the purpose
31 of determining the chemical content of your body fluids or breath. If you refuse this testing, certain
32 penalties can be imposed and include the following: for a first offense, your Rhode Island driver's
33 license or privilege to operate a motor vehicle in this state can be suspended for six (6) months to
34 one year or modified to permit operation in connection with an ignition interlock device and/or

1 blood and urine testing for a period specified by law; a fine from two hundred dollars (\$200) to five
2 hundred dollars (\$500) can be imposed; and you can be ordered to perform ten (10) to sixty (60)
3 hours of community service and attend a special course on driving while intoxicated or under the
4 influence of a controlled substance and/or alcohol or drug treatment. If you have had one or more
5 previous offenses within the past ten (10) years, your refusal to submit to a chemical test of breath
6 or urine at this time can have criminal penalties, including incarceration up to six (6) months for a
7 second offense and up to one year for a third or subsequent offense, and can carry increased license
8 suspension or ignition interlock and/or blood and urine testing periods, fines, and community
9 service. All violators shall pay a five hundred dollar (\$500) highway safety assessment fee, a two
10 hundred dollar (\$200) ~~department of health~~ [Rhode Island state crime laboratory](#) chemical testing
11 programs assessment fee, and a license reinstatement fee. Refusal to submit to a chemical test of
12 blood shall not subject you to criminal penalties for the refusal itself, but if you have one or more
13 previous offenses other civil penalties may increase. You have the right to be examined at your
14 own expense by a physician selected by you. If you submit to a chemical test at this time, you have
15 the right to have an additional chemical test performed at your own expense. You will be afforded
16 a reasonable opportunity to exercise these rights. Access to a telephone will be made available for
17 you to make those arrangements. You may now use a telephone.”

18 Use of this implied consent notice shall serve as evidence that a person’s consent to a
19 chemical test is valid in a prosecution involving driving under the influence of liquor, controlled
20 substances, and/or drugs.

21 (d) Upon suspending or refusing to issue a license or permit as provided in subsection (a),
22 the traffic tribunal or district court shall immediately notify the person involved in writing, and
23 upon his or her request, within fifteen (15) days, afford the person an opportunity for a hearing as
24 early as practical upon receipt of a request in writing. Upon a hearing, the judge may administer
25 oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books
26 and papers. If the judge finds after the hearing that:

27 (1) The law enforcement officer making the sworn report had reasonable grounds to believe
28 that the arrested person had been driving a motor vehicle within this state while under the influence
29 of intoxicating liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or
30 any combination of these;

31 (2) The person, while under arrest, refused to submit to the tests upon the request of a law
32 enforcement officer;

33 (3) The person had been informed of his or her rights in accordance with § 31-27-3; and

34 (4) The person had been informed of the penalties contained in the implied consent notice

1 set forth in subsection (c)(10) of this section, the judge shall sustain the violation. The judge shall
2 then impose the penalties set forth in subsection (c) of this section. Action by the judge must be
3 taken within seven (7) days after the hearing or it shall be presumed that the judge has refused to
4 issue his or her order of suspension.

5 (e) For the purposes of this section, any test of a sample of blood, breath, or urine for the
6 presence of alcohol that relies, in whole or in part, upon the principle of infrared light absorption is
7 considered a chemical test.

8 (f) If any provision of this section, or the application of any provision, shall, for any reason,
9 be judged invalid, the judgment shall not affect, impair, or invalidate the remainder of the section,
10 but shall be confined in this effect to the provisions or application directly involved in the
11 controversy giving rise to the judgment.

12 **31-27-2.3. Revocation of license upon refusal to submit to preliminary breath test.**

13 (a) When a law enforcement officer has reason to believe that a person is driving or in
14 actual physical control of any motor vehicle in this state while under the influence of alcohol, the
15 law enforcement officer may require the person to submit to a preliminary breath analysis for the
16 purpose of determining the person's blood alcohol content. The breath analysis must be
17 administered immediately upon the law enforcement officer's formulation of a reasonable belief
18 that the person is driving or in actual control of a motor vehicle while under the influence of alcohol,
19 or immediately upon the stop of the person, whichever is later in time. Any chemical breath analysis
20 required under this section must be administered with a device and in a manner approved by the
21 director of the ~~department of health~~ [Rhode Island state crime laboratory](#) for that purpose. The result
22 of a preliminary chemical breath analysis may be used for the purpose of guiding the officer in
23 deciding whether an arrest should be made. When a driver is arrested following a preliminary breath
24 analysis, tests may be taken pursuant to § 31-27-2.1. The results of a preliminary breath test may
25 not be used as evidence in any administrative or court proceeding involving driving while
26 intoxicated or refusing to take a breathalyzer test, except as evidence of probable cause in making
27 the initial arrest.

28 (b) If a person refuses, upon a lawful request of a law enforcement officer, to submit to a
29 test under subsection (a) of this section, that person shall be guilty of an infraction and shall be
30 subject to the penalty provided in § 31-41.1-4. However, it shall be a defense to a charge of refusing
31 a validly requested preliminary breath analysis that the medical condition of a person precluded the
32 giving of any such test.

33 **31-27-2.5. Chemical tests to persons under eighteen (18) years of age — Refusal —**
34 **License suspension.**

1 (a) Any person under eighteen (18) years of age who shall refuse to submit to a chemical
2 test as provided in § 31-27-2 shall have imposed all the penalties provided by § 31-27-2.1, but shall
3 have his or her license suspended on a first violation for six (6) months, subject to the terms of
4 subsection (e) of this section.

5 (b) Jurisdiction for violations of this section is given to the family court.

6 (c) If a person as set forth in subsection (a) of this section refuses, upon the request of a
7 law enforcement officer, to submit to a test as provided in § 31-27-2.1, none shall be given, but a
8 judge of the family court, upon receipt of a report or testimony of a law enforcement officer: that
9 he or she had probable cause to stop the arrested person and reasonable grounds to believe the
10 arrested person had been driving a motor vehicle within this state while impaired by intoxicating
11 liquor, toluene, or any controlled substance, as defined in chapter 28 of title 21, or any combination
12 of these; that the person had been informed of his or her rights in accordance with § 31-27-3; that
13 the person had been informed of the implied consent notice contained in subsection (h) of this
14 section; and that the person had refused to submit to the test upon the request of a law enforcement
15 officer; shall promptly order a hearing on whether the person's operator's license or privilege to
16 operate a motor vehicle in this state shall be suspended. Upon suspension, the judge shall order the
17 license of the person to be surrendered to the department of administration, division of motor
18 vehicles, within three (3) days.

19 (d) If the person takes a test, as provided in § 31-27-2 and the test determines the person's
20 blood alcohol concentration to be at least two-hundredths of one percent (.02%) but less than one-
21 tenth of one percent (.1%) by weight, the person shall be determined to have been driving while
22 impaired. A judge of the family court shall, pursuant to the terms of subsection (e) of this section,
23 order as follows:

24 (1) A highway safety assessment of one hundred fifty dollars (\$150), or community
25 restitution in lieu of highway safety assessment shall be paid by any person found in violation of
26 this section. The assessment shall be deposited into the general fund.

27 (2) The person's driving license shall be suspended for six (6) months on a first violation,
28 and may be suspended for a period of up to twelve (12) months, provided the person also shall
29 attend a special course on driving while intoxicated and provided that the person shall also attend
30 an alcohol and/or drug treatment program if ordered by the family court judge. Failure or refusal
31 of the person to attend the course and/or alcohol or drug treatment program shall result in the
32 person's driving license being suspended until the course or treatment program has been completed.

33 (3) On a second violation of this section, the person's driving license shall be suspended
34 until he or she is twenty-one (21) years of age. The sentencing judge shall require alcohol and/or

1 drug treatment for the individual.

2 (4) On a third or subsequent violation, the person's driving license shall be suspended for
3 an additional period of two (2) years and the sentencing judge shall require alcohol and/or drug
4 treatment for the individual.

5 (5) No suspensions, assessments, driving while intoxicated school, or alcohol and/or drug
6 treatment programs under this section can be suspended, shortened, altered, or changed.

7 (e) Upon suspending a license or permit as provided in subsection (a), (c), or (d) of this
8 section, the family court shall immediately notify the person involved, in writing, as well as the
9 custodial parent if the person is under the age of eighteen (18) years.

10 (f) The police department which charges any person under eighteen (18) years of age with
11 refusal to submit to a chemical test, driving while impaired by intoxicating liquors or drugs, or
12 driving while under the influence of liquor or drugs, shall ascertain the name and address of the
13 custodial parent of the person and shall notify the parent in writing within ten (10) days of the
14 charge.

15 (g) The department of administration, upon issuing a first license to a person sixteen (16)
16 or seventeen (17) years of age, shall provide a written notice of the penalties provided by this
17 section. Any violation of this section shall not be considered a criminal offense.

18 (h) Implied consent notice for persons under eighteen (18) years of age:

19 "Rhode Island law requires you to submit to a chemical test of your blood, breath, or urine
20 for the purpose of determining the chemical content of your body fluids or breath. If you refuse this
21 testing, certain penalties can be imposed. These penalties include the following: your Rhode Island
22 driver's license or privilege to operate a motor vehicle in this state can be suspended for six (6)
23 months or modified to permit operation in connection with an ignition interlock device for a period
24 specified by law; a fine from two hundred dollars (\$200) to five hundred dollars (\$500) can be
25 imposed; and you can be ordered to perform ten (10) to sixty (60) hours of community service and
26 attend a special course on driving while intoxicated or under the influence of a controlled substance
27 and/or alcohol or drug treatment. If you have had one or more previous offenses within the past
28 five (5) years, your loss or modification of license, fine, and community service sanctions can
29 increase over those provided for a first offense. All violators shall pay a five hundred dollar (\$500)
30 highway safety assessment fee, a two hundred dollar (\$200) ~~department of health~~ [Rhode Island](#)
31 [state crime laboratory](#) chemical testing programs fee, and a license reinstatement fee. If you refuse
32 to submit to a chemical test, you will be required to maintain proof of financial responsibility for
33 three (3) years. Refusal to submit to a chemical test shall not be considered a criminal offense. You
34 have the right to be examined at your own expense by a physician selected by you. If you submit

1 to a chemical test at this time, you have the right to have an additional chemical test performed at
2 your own expense. You will be afforded a reasonable opportunity to exercise these rights. Access
3 to a telephone will be made available for you to make those arrangements. You may now use the
4 telephone.”

5 Use of this implied consent notice shall serve as evidence that a person’s consent to a
6 chemical test is valid in a trial for driving under the influence of liquor, controlled substances,
7 and/or drugs.

8 **31-27-2.9. Administration of chemical test.**

9 (a) Notwithstanding any provision of § 31-27-2.1, if an individual refuses to consent to a
10 chemical test as provided in § 31-27-2.1, and a peace officer, as defined in § 12-7-21, has probable
11 cause to believe that the individual has violated one or more of the following sections: 31-27-1, 31-
12 27-1.1, 31-27-2.2, or 31-27-2.6 and that the individual was operating a motor vehicle under the
13 influence of any intoxicating liquor, toluene or any controlled substance as defined in chapter 21-
14 28, or any combination thereof, a chemical test may be administered without the consent of that
15 individual provided that the peace officer first obtains a search warrant authorizing administration
16 of the chemical test. The chemical test shall determine the amount of the alcohol or the presence of
17 a controlled substance in that person’s blood, saliva or breath.

18 (b) The chemical test shall be administered in accordance with the methods approved by
19 the director of the ~~department of health~~ [Rhode Island state crime laboratory](#) as provided for in
20 subdivision 31-27-2(c)(4). The individual shall be afforded the opportunity to have an additional
21 chemical test as established in subdivision 31-27-2(c)(6).

22 (c) Notwithstanding any other law to the contrary, including, but not limited to, chapter 5-
23 37.3, any health care provider who, as authorized by the search warrant in subsection (a):

- 24 (i) Takes a blood, saliva or breath sample from an individual; or
25 (ii) Performs the chemical test; or
26 (iii) Provides information to a peace officer pursuant to subsection (a) above and who uses
27 reasonable care and accepted medical practices shall not be liable in any civil or criminal
28 proceeding arising from the taking of the sample, from the performance of the chemical test or from
29 the disclosure or release of the test results.

30 (d) The results of a chemical test performed pursuant to this section shall be admissible as
31 competent evidence in any civil or criminal prosecution provided that evidence is presented in
32 compliance with the conditions set forth in subdivisions 31-27-2(c)(3), 31-27-2(c)(4) and 31-27-
33 2(c)(6).

34 (e) All chemical tests administered pursuant to this section shall be audio and video

1 recorded by the law enforcement agency which applied for and was granted the search warrant
2 authorizing the administration of the chemical test.

3 SECTION 8. Section 21-28-4.21 of the General Laws in Chapter 21-28 entitled "Uniform
4 Controlled Substances Act" is hereby amended to read as follows:

5 **21-28-4.21. Drug testing required.**

6 Every person who shall be placed on probation for a violation of any section in this chapter
7 prohibiting the unlawful sale, distribution, manufacture, delivery or possession with intent to
8 manufacture, sell, distribute or deliver any controlled substance as classified in schedule I or II or
9 possession of a controlled substance as classified in schedule I or II shall, as a condition of the
10 probation, be required to at his or her own expense submit to drug testing in accordance with the
11 standards and procedures of the ~~department of health~~ [Rhode Island state crime laboratory](#) not less
12 than once per month.

13 SECTION 9. This act shall take effect upon passage.

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LC002536
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE -- STATE CRIME LABORATORY
COMMISSION

- 1 This act would establish the Rhode Island state crime laboratory within the department of
- 2 attorney general.
- 3 This act would take effect upon passage.

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