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LC02523/SUB A

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2006

A N A C T

RELATING TO CITIES AND TOWNS -- RELIEF OF INJURED AND DECEASED FIRE FIGHTERS AND POLICE OFFICERS

Introduced By: Representatives Pacheco, Church, Gallison, Sullivan, and Long

Date Introduced: February 28, 2006

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-5-5 of the General Laws in Chapter 11-5 entitled "Assaults" is
2 hereby amended to read as follows:

3 **11-5-5. Assault of police officers and other officials.** -- Any person who shall make an
4 assault or battery, or both, by knowingly and willfully either (1) striking, or (2) spraying with a
5 noxious chemical, commonly used as a personal defense weapon, including Mace and an
6 oleoresin capsicum product or like products, a uniformed member of the state police or
7 metropolitan park police, environmental police officer, state properties patrol officer, probation
8 and parole officers, state government case worker or investigator, judge of the supreme, superior,
9 family, district court, traffic tribunal or municipal court, sheriff, deputy sheriff, city or town
10 police officer or firefighter, [volunteer fire fighter](#), member of the Rhode Island state marshals of
11 the department of corrections, member of the capitol police, member of campus security force of
12 state colleges and universities, member of the Rhode Island airport police department, member of
13 the Rhode Island fugitive task force, Rhode Island public transit authority bus driver, or on-duty
14 plainclothes member of the town, city, or state police force, investigator of the department of the
15 attorney general appointed pursuant to section 42-9-8.1, or member of the railroad police after
16 proper identification is displayed, or uniformed dog officer, or out-of-state police officer called
17 into Rhode Island under a cooperative agreement to provide mutual aid at the request of the state
18 of Rhode Island pursuant to chapter 37 of title 42, or assistant attorney general or special assistant

1 attorney general, or employees of the department of environmental management responsible for
2 administrative inspections causing bodily injury while the officer or official is engaged in the
3 performance of his or her duty, shall be deemed to have committed a felony, and shall be
4 imprisoned not exceeding three (3) years, or fined not exceeding fifteen hundred dollars (\$1,500),
5 or both.

6 SECTION 2. Section 11-23-2 of the General Laws in Chapter 11-23 entitled "Homicide"
7 is hereby amended to read as follows:

8 **11-23-2. Penalties for murder. --** Every person guilty of murder in the first degree shall
9 be imprisoned for life. Every person guilty of murder in the first degree: (1) committed
10 intentionally while engaged in the commission of another capital offense or other felony for
11 which life imprisonment may be imposed; (2) committed in a manner creating a great risk of
12 death to more than one person by means of a weapon or device or substance which would
13 normally be hazardous to the life of more than one person; (3) committed at the direction of
14 another person in return for money or any other thing of monetary value from that person; (4)
15 committed in a manner involving torture or an aggravated battery to the victim; (5) committed
16 against any member of the judiciary, law enforcement officer, corrections employee, assistant
17 attorney general or special assistant attorney general, or firefighter [or volunteer fire fighter](#) arising
18 from the lawful performance of his or her official duties; (6) committed by a person who at the
19 time of the murder was committed to confinement in the adult correctional institutions or the state
20 reformatory for women upon conviction of a felony; or (7) committed during the course of the
21 perpetration or attempted perpetration of felony manufacture, sale, delivery or other distribution
22 of a controlled substance otherwise prohibited by the provisions of chapter 28 of title 21; shall be
23 imprisoned for life and if ordered by the court pursuant to chapter 19.2 of title 12 that person shall
24 not be eligible for parole from imprisonment. Every person guilty of murder in the second degree
25 shall be imprisoned for not less than ten (10) years and may be imprisoned for life.

26 SECTION 3. Section 11-44-23 of the General Laws in Chapter 11-44 entitled "Trespass
27 and Vandalism" is hereby amended to read as follows:

28 **11-44-23. Throwing objects at police officer, firefighter or police or fire vehicles. --**
29 Every person who shall willfully throw, shoot, or in any other manner propel a rock or any other
30 object at any police officer, firefighter, [volunteer fire fighter](#), or any police or fire vehicle,
31 whether moving or not, shall, upon conviction, be punished by a fine not exceeding five hundred
32 dollars (\$500) or by imprisonment not exceeding one year, or both.

33 SECTION 4. Section 23-4.1-12 of the General Laws in Chapter 23-4.1 entitled
34 "Emergency Medical Transportation Services" is hereby amended to read as follows:

1 **23-4.1-12. Immunity from liability.** -- (a) No person, licensed and authorized pursuant
2 to this chapter or rules and regulations promulgated pursuant to this chapter, shall be liable for
3 any civil damages for any act or omission in connection with emergency medical services (EMS)
4 training or in connection with services rendered outside a hospital, unless the act or omission is
5 inconsistent with the level and scope of the person's training and experience and unless the act or
6 omission was the result of gross negligence or willful misconduct.

7 (b) No agency, organization, institution, corporation, or entity of state or local
8 government that sponsors, authorizes, supports, finances, or supervises the functions of
9 emergency medical services personnel licensed and authorized pursuant to this chapter, including
10 advanced life support personnel, shall be liable for any civil damages for any act or omission in
11 connection with sponsorship, authorization, support, finance, or supervision of those emergency
12 medical services personnel, where the act or omission occurs in connection with EMS training or
13 with services rendered outside a hospital, unless the act or omission is inconsistent with the level
14 and scope of the training of the emergency medical services personnel and unless the act or
15 omission was the result of gross negligence or willful misconduct.

16 (c) No principal, agent, contractor, employee, or representative of an agency,
17 organization, institution, corporation, or entity of state or local government that sponsors,
18 authorizes, supports, finances, or supervises any functions of emergency medical services
19 personnel licensed and authorized pursuant to this chapter, or rules and regulations promulgated
20 pursuant to this chapter, including advanced life support personnel, shall be liable for any civil
21 damages for any act or omission in connection with that sponsorship, authorization, support,
22 finance, or supervision of those emergency medical services personnel, where the act or omission
23 occurs in connection with EMS training, or occurs outside a hospital, unless the act or omission is
24 inconsistent with the level and scope of the training of the emergency medical services personnel
25 and unless the act or omission was the result of gross negligence or willful misconduct.

26 (d) No physician, who in good faith arranges for, requests, recommends, or initiates the
27 transfer of a patient from a hospital to a critical medical care facility in another hospital, shall be
28 liable for any civil damages as a result of the transfer, where sound medical judgment indicates
29 that the patient's medical condition is beyond the care capability currently available in the
30 transferring hospital or the medical community in which that hospital is located and where a prior
31 agreement exists from the transferee facility to accept and render necessary treatment to those
32 patients.

33 (e) Any municipal, fire district, or state firefighter, [volunteer fire fighter](#), paramedic, or
34 emergency medical technician who, in good faith, without the expectation of monetary or other

1 compensation from the person aided or treated, renders first aid, emergency treatment, rescue
2 assistance, or transport services to a person at the scene of an accident, fire, or in any other
3 emergency situation, or en route from the scene to any hospital, medical clinic, or doctor's office,
4 shall not be liable for any civil damages for acts or omissions resulting from the rendering of that
5 care, treatment, or assistance.

6 (f) The individual immunity granted in this section applies to members or employees of
7 governmental ambulance, rescue, or emergency units, whether or not a user or service fee may be
8 charged by the governmental entity and whether or not the members or employees receive
9 salaries or other compensation from the governmental entity.

10 (g) The immunity granted in this section also extends to any city, town, or fire district
11 engaged in rendering emergency aid.

12 (h) This section shall not be construed to provide immunity to a person or entity causing
13 any damage by his willful, wanton, or reckless acts or omissions.

14 SECTION 5. Section 23-28.6-21 of the General Laws in Chapter 23-28.6 entitled "Places
15 of Assembly" is hereby amended to read as follows:

16 **23-28.6-21. Sprinklers required.** -- (a) All new and existing places of assembly shall be
17 completely protected by an approved system of automatic sprinklers installed and maintained in
18 accordance with N.F.P.A. Standard 13, 2002 Edition and its related standards pursuant to the
19 schedule outlined in subsection (d).

20 (b) The requirements of subsection (a) shall not apply to:

21 (i) Any place of assembly with an occupancy load of fifty (50) to three hundred (300)
22 people of less concentrated use, exclusively calculated at fifteen (15) square feet per person;

23 (ii) Any place of assembly with an occupancy load of fifty (50) to three hundred (300)
24 people of concentrated use not classified as a "nightclub";

25 (iii) Any place of assembly with an occupancy load of fifty (50) to three hundred (300)
26 people of concentrated use, classified as a "nightclub" with a posted maximum occupancy of less
27 than one hundred fifty (150) people;

28 (iv) Any existing building with a total (complete) coverage fire alarm system used
29 primarily as a place of worship. For the purposes of this subsection (b)(iv), incidental business
30 offices, religious education programs and other programs designed to watch children during the
31 limited period of time that their parents or guardians attend religious services in the building,
32 shall be allowed in an exempted place of worship. Additionally, for purposes of this subsection
33 (b)(iv), the square footage of the area used primarily as a place of worship shall not be included in
34 the calculation of the remaining areas of the building to determine its classification and the

1 applicability of this section. In the event a building is so calculated and requires sprinklers, the
2 sprinkler system shall not be extended into those areas used primarily as a place of worship of a
3 building with a total (complete) coverage fire alarm system.

4 (v) The open assembly areas in existing unheated buildings used on a seasonal basis
5 provided the building is protected by a properly maintained total (complete) fire alarm system
6 during all periods of occupancy.

7 (vi) Student occupied assembly areas, such as auditorium(s), library(s), cafeteria(s) and
8 gymnasium(s), within any existing building, classified as either an educational occupancy, or an
9 institution of higher education such as a community college, a college and/or university, that is
10 protected by a properly maintained total (complete) fire alarm system. In the event the owner or
11 management of such a building plans to use one or more of the above assembly areas, in a
12 manner inconsistent with the traditional educational use, for example a community meeting, a
13 dance or a play, the owner or responsible management must first consult with the state fire
14 marshal's designee, in the local fire department, and develop a plan of action for such use. The
15 proposed event shall only be conducted pursuant to the above plan of action. This exception shall
16 not apply to any such existing higher education assembly area(s) used generally for commercial
17 purposes such as an arena, restaurant, bar or lounge.

18 (c) Alternatively engineered sprinkler systems, approved by the Fire Safety Code Board
19 of Appeal and Review, shall be allowed in the retrofitting of an existing place of assembly with
20 sprinklers.

21 (d) All places of assembly with a maximum occupancy of more than three hundred (300)
22 people shall be fully sprinkled in accordance with the above standards on or before July 1, 2005.
23 All "nightclubs" with a posted maximum occupancy of one hundred fifty (150) or more people,
24 and up to three hundred (300) people shall be fully sprinkled in accordance with the above
25 standards on or before July 1, 2006. For good cause shown, the above deadlines may be extended
26 by the Fire Safety Code Board of Appeal & Review. However, in no event shall the deadlines be
27 extended beyond July 1, 2008.

28 (e) The occupancy of any place of assembly without a fire alarm system and/or sprinkler
29 system after July 1, 2004, shall have its maximum occupancy adjusted by minus ten percent
30 (10%) for the absence of a fire alarm system and minus twenty percent (20%) for the absence for
31 the sprinklers, when fire alarm systems and/or sprinklers are required by law or regulation. Such
32 downward adjustment in occupancy shall be cumulative and shall cease to apply when the
33 premises are in compliance with requirements for fire alarms systems and sprinklers, and shall
34 not affect any other requirements of the Fire Safety Code Board of Appeal and Review applicable

1 to the premises. The ten percent (10%) and twenty percent (20%) reductions in maximum
2 occupancy, herein set forth, may be waived, in writing, by the state fire marshal, assistant state
3 fire marshal, deputy state fire marshals, the local fire chief of the jurisdiction in which the place
4 of assembly is located, or an assistant deputy state fire marshal as designated by the local fire
5 chief. Provided, however, that the owner or management responsible for the operation of the
6 facility shall be required to operate said facility under an alternative plan of action for fire safety,
7 which plan shall require the approval of the state fire marshal, the assistant state fire marshal,
8 deputy state fire marshals, the local fire chief of the jurisdiction in which the place of assembly is
9 located, or an assistant deputy state fire marshal as designated by the local fire chief, in order to
10 qualify for the waiver provided for herein.

11 (f) A place of assembly with an occupancy of one hundred fifty (150) or greater and up
12 to three hundred (300) may avoid the above occupancy adjustment by requiring a fire fighter [or](#)
13 [volunteer fire fighter from the municipality or district where he or she is employed or volunteers,](#)
14 to be on duty during all hours of occupancy. In no event shall the occupancy adjustment to the
15 firefighter requirement alter the July 1, 2006 deadline for the installation of sprinklers.

16 (g) All places of assembly with an occupancy of less than one hundred fifty (150) shall
17 use fire retardant paints or other coverings, to a standard acceptable to the Fire Safety Code Board
18 of Appeal and Review, unless the building has sprinklers by July 1, 2006.

19 SECTION 6. Section 23-28.19-15 of the General Laws in Chapter 23-28.19 entitled
20 "Tents-Grandstands-Air-Supported Structures" is hereby amended to read as follows:

21 **23-28.19-15. Detail of firefighters.** -- (a) Uniformed firefighters [or volunteer fire fighters](#)
22 [from the municipality or district where he or she is employed or volunteers](#) shall be detailed to all
23 circuses, carnivals, or other exhibitions where large crowds assemble. They shall familiarize
24 themselves with all fire protection facilities and fire prevention features, and with the condition of
25 exits, and shall patrol the entire area of the tent during the time it is occupied. Special police
26 officers or firefighters should see that overcrowding is not permitted, that aisles and exitways are
27 kept open, and that no smoking rules are observed.

28 (b) (1) All tents with a capacity of one thousand (1000) or more persons shall have a
29 minimum of two (2) uniformed fire fighters and any additional firefighters on duty when deemed
30 necessary by the chief of the local fire department.

31 (2) All tents with a capacity of three hundred and one (301) to one thousand (1000)
32 persons shall have a minimum of one uniformed firefighter and any additional firefighters on duty
33 when deemed necessary by the chief of the local fire department.

34 (3) All tents with a capacity of fifty (50) to three hundred (300) persons shall have a

1 minimum of one uniformed firefighter and any additional firefighters on duty when deemed
2 necessary by the chief of the local fire department. This requirement may be waived by the chief
3 of the local fire department.

4 SECTION 7. Section 23-28.36-2 of the General Laws in Chapter 23-28.36 entitled
5 "Notification of Fire Fighters, Police Officers and Emergency Medical Technicians After
6 Exposure to" is hereby amended to read as follows:

7 **23-28.36-2. Definitions.** -- The following terms when used in this chapter shall have the
8 following meanings herein ascribed:

9 (1) "Contagious disease" means an infectious disease.

10 (2) "Disability" means a condition of physical incapacity to perform any assigned duty or
11 duties in the fire department or emergency medical service.

12 (3) "Emergency medical technician" means a person licensed pursuant to chapter 4.1 of
13 this title to provide emergency medical services.

14 (4) "Fire department" means service groups (paid or volunteer) that are organized and
15 trained for the prevention and control of loss of life and property from fire or other emergency.

16 (5) "Fire fighter", [whether paid or volunteer](#), means an individual who is assigned to fire
17 fighting activity and is required to respond to alarms and perform emergency action at the
18 location of a fire, hazardous materials, or other emergency incident.

19 (6) "Infectious disease" means interruption, cessation, or disorder of body functions,
20 systems, or organs transmissible by association with the sick or their secretions or excretions,
21 excluding the common cold. Infectious disease includes, but is not limited to, human
22 immunodeficiency virus (HIV), hepatitis B virus (HBV), and hepatitis C virus (HCV).

23 (7) "Licensed facility" means a hospital, nursing home, medical clinic, dialysis center,
24 physician's office, or the like, as licensed by the province to provide medical care.

25 (8) "Police officer" means any permanently employed city or town police officer, state
26 police officer, committing squad member, or other permanent law enforcement officer as defined
27 in section 12-7-21; provided, however, this shall not include the highest ranking officer of any of
28 the departments.

29 (9) "Strike force member" means any member of the statewide strike force of the
30 department of attorney general.

31 SECTION 8. Section 28-5-6 of the General Laws in Chapter 28-5 entitled "Fair
32 Employment Practices" is hereby amended to read as follows:

33 **28-5-6. Definitions.** -- When used in this chapter:

34 (1) "Age" means anyone who is at least forty (40) years of age.

(2) "Because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions, and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in this chapter shall be interpreted to permit otherwise.

(3) "Commission" means the Rhode Island commission against discrimination created by this chapter.

(4) "Disability" means any physical or mental impairment which substantially limits one or more major life activities, has a record of an impairment, or is regarded as having an impairment by any person, employer, labor organization or employment agency subject to this chapter, and includes any disability which is provided protection under the Americans with Disabilities Act, 42 U.S.C. section 12101 et seq. and federal regulations pertaining to the act, 28 CFR 35 and 29 CFR 1630; provided, that whether a person has a disability shall be determined without regard to the availability or use of mitigating measures, such as reasonable accommodations, prosthetic devices, medications or auxiliary aids. As used in this subdivision, the phrase:

(i) "Has a record of an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Physical or mental impairment" means any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(iv) "Regarded as having an impairment" means has a physical or mental impairment that does not substantially limit major life activities but that is treated as constituting a limitation; has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward the impairment; or has none of the impairments but is treated as having such an impairment.

(5) "Discriminate" includes segregate or separate.

(6) "Employee" does not include any individual employed by his or her parents, spouse,

1 or child, or in the domestic service of any person.

2 (7) (i) "Employer" includes the state and all political subdivisions of the state and any
3 person in this state employing four (4) or more individuals, and any person acting in the interest
4 of an employer directly or indirectly.

5 (ii) Nothing in this subdivision shall be construed to apply to a religious corporation,
6 association, educational institution, or society with respect to the employment of individuals of its
7 religion to perform work connected with the carrying on of its activities.

8 (8) "Employment agency" includes any person undertaking with or without
9 compensation to procure opportunities to work, or to procure, recruit, refer, or place employees.

10 (9) "Firefighter" means an employee the duties of whose position includes work
11 connected with the control and extinguishment of fires or the maintenance and use of firefighting
12 apparatus and equipment, including an employee engaged in this activity who is transferred or
13 promoted to a supervisory or administrative position. The designation "fire fighter" shall include
14 any person who engages in substantially the same activities as a municipal, district or state fire
15 fighter, but who performs the functions in a volunteer company.

16 (10) "Gender identity or expression" includes a person's actual or perceived gender, as
17 well as a person's gender identity, gender-related self image, gender-related appearance, or
18 gender-related expression; whether or not that gender identity, gender-related self image, gender-
19 related appearance, or gender-related expression is different from that traditionally associated
20 with the person's sex at birth.

21 (11) "Labor organization" includes any organization which exists for the purpose, in
22 whole or in part, of collective bargaining or of dealing with employers concerning grievances,
23 terms or conditions of employment, or of other mutual aid or protection in relation to
24 employment.

25 (12) "Law enforcement officer" means an employee the duties of whose position include
26 investigation, apprehension, or detention of individuals suspected or convicted of offenses against
27 the criminal laws of the state, including an employee engaged in such activity who is transferred
28 or promoted to a supervisory or administrative position. For the purpose of this subdivision,
29 "detention" includes the duties of employees assigned to guard individuals incarcerated in any
30 penal institution.

31 (13) "Person" includes one or more individuals, partnerships, associations, organizations,
32 corporations, legal representatives, trustees, trustees in bankruptcy, or receivers.

33 (14) "Religion" includes all aspects of religious observance and practice, as well as
34 belief, unless an employer, union or employment agency demonstrates that it is unable to

1 reasonably accommodate to an employee's or prospective employee's or union member's religious
2 observance or practice without undue hardship on the conduct of its business.

3 (15) "Sexual orientation" means having or being perceived as having an orientation for
4 heterosexuality, bisexuality, or homosexuality. This definition is intended to describe the status of
5 persons and does not render lawful any conduct prohibited by the criminal laws of this state nor
6 impose any duty on a religious organization. This definition does not confer legislative approval
7 of that status, but is intended to assure the basic human rights of persons to obtain and hold
8 employment, regardless of that status.

9 SECTION 9. Section 9-9-3 of the General Laws in Chapter 9-9 entitled "Jury Lists" is
10 hereby amended to read as follows:

11 **9-9-3. Persons exempt from service.** -- The following persons shall be exempted from
12 serving as jurors, unless such persons shall waive their exemption, namely: the members of
13 congress from the state of Rhode Island, the general officers of the state, the members and
14 officers of the general assembly during their tenure of office irrespective of whether the general
15 assembly is in session or not, the jury commissioner and his or her assistants, the justices of the
16 state and United States courts, clerks of those courts, practicing attorneys-at-law, sheriffs, deputy
17 sheriffs, marshals, deputy marshals, probation and parole officers, members of any paid police
18 force of the state or of any city or town, members of any paid fire department of any city or town,
19 [volunteer fire fighters, volunteer rescue personnel,](#) and members of the armed services on active
20 duty.

21 SECTION 10. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CITIES AND TOWNS -- RELIEF OF INJURED AND DECEASED FIRE
FIGHTERS AND POLICE OFFICERS

- 1 This act would amend various statutes throughout the general laws to afford volunteer
2 firefighters the same rights and protections as paid firefighters.
3 This act would take effect upon passage.

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