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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS

Introduced By: Senators Hodgson, E O'Neill, Lombardi, and Conley

Date Introduced: February 28, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

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

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

17 (2) Without limiting the generality of the foregoing powers and authority, the  
18 administrator/magistrate is authorized and empowered to hear and determine motions in civil and  
19 criminal proceedings, formal and special causes, to conduct arraignments, to grant or deny bail, to

1 accept pleas of not guilty, guilty, or nolo contendere, and to impose sentence on a plea of guilty  
2 or nolo contendere, all to the same effect as if done by a justice of the superior court.

3 (c) The administrator/magistrate may be authorized:

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

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

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

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

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

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

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

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

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

29 (e) Final orders of the superior court entered in a proceeding to review an order of the  
30 administrator/magistrate may be appealed to the supreme court.

31 (f) The administrator/magistrate shall be:

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

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

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

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

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

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

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

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

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

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

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

33 (d) The general magistrate may be authorized:

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

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

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

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

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

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

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

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

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

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

28           (g) The general magistrate shall:

29           (1) Receive all credits and retirement allowances as afforded justices under chapter 3 of  
30 this title and any other applicable law, including without limitation, section 8-3-16;

31           (2) Receive a salary equivalent to that of a district court judge;

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

34           (4) Be subject to all provisions of the canons of judicial ethics or code of judicial

1 conduct;

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

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

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

15 **8-2-39.1. Special magistrate.** -- There is hereby created within the superior court the  
16 position of special magistrate, who shall be ~~appointed~~ nominated by the ~~presiding justice of the~~  
17 ~~superior court,~~ governor, on the basis of merit, from a list submitted by the judicial nominating  
18 commission, with the advice and consent of the senate, for a period of ten (10) years, and until a  
19 successor is appointed and qualified. Nothing contained herein shall be construed to prohibit the  
20 reappointment of a special magistrate for one or more additional ten (10) year terms, subject to  
21 the advice and consent of the senate. The person appointed to serve as special magistrate shall be  
22 a member of the bar of the state of Rhode Island. The special magistrate shall have the duties,  
23 responsibilities, powers and benefits as authorized in section 8-2-39.

24 **8-2-39.2. Drug court magistrate -- Appointment, duties and powers.** -- (a) For the  
25 purposes of this chapter:

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

33 (2) "Drug addicted person" means a person who exhibits a maladaptive pattern of  
34 behavior resulting from drug use, including one or more of the following: impaired control over

1 drug use; compulsive use; and/or continued use despite harm, and craving.

2 (b) There is hereby created within the superior court the position of Drug Court  
3 Magistrate who shall be ~~appointed~~ nominated by the ~~presiding justice of the superior court~~  
4 governor, on the basis of merit, from a list submitted by the judicial nominating commission, with  
5 the advice and consent of the senate. The persons appointed to serve as Drug Court Magistrates  
6 shall be members of the bar of Rhode Island. The powers and duties of the Drug Court Magistrate  
7 shall be prescribed in the order appointing him or her in addition to those described herein.

8 The Drug Court Magistrate's term shall be ten (10) years and until a successor is  
9 ~~appointed~~ nominated and qualified. Nothing in this article shall prohibit a Drug Court Magistrate  
10 from being ~~reappointed~~ renominated for additional ten (10) year terms by the ~~presiding justice of~~  
11 ~~the superior court~~ governor, on the basis of merit, from a list submitted by the judicial nominating  
12 commission, with the advice and consent of the senate. He or she shall receive a salary equivalent  
13 to that received by the special magistrate assigned to the superior court. The Drug Court  
14 Magistrate shall preside over the Adult Drug Court. The Adult Drug Court Program shall  
15 combine the coercive powers of the court with a therapeutic regimen in order to rehabilitate drug  
16 addicted defendants.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **8-8-8.1. Administrator/clerk -- Magistrate.** -- (a) Administrator/clerk. - There shall be a  
30 district court administrator/clerk who shall be ~~appointed~~ nominated by the chief judge in his or  
31 her capacity as administrative head of the court, and who shall hold office at the pleasure of the  
32 administrative judge. The administrator/clerk shall perform such duties and attend to such matters  
33 as may be assigned to the administrator/clerk by the administrative judge, other than those duties  
34 assigned to the chief clerk in section 8-8-19. Said duties may be assigned by the chief judge.

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

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

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

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

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

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

27 (5) Probation revocation hearings;

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

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



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

12 (d) The magistrate may be authorized:

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

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

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

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

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

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

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

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

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

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

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

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

8 (f) The magistrate shall be:

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

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

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

13 (g) The provisions of this section shall be afforded liberal construction.

14 **8-8-16.2. District court clerk/magistrate.** -- (a) Any person who is a member of the bar

15 of Rhode Island may be ~~appointed~~ nominated district court clerk/magistrate by the ~~chief judge in~~  
16 ~~his or her capacity as administrative head of the court,~~ governor, on the basis of merit, from a list  
17 submitted by the judicial nominating commission, subject to the advice and consent of the senate.

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

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

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

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

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

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

34 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to

1 examine them and to call parties to the proceeding and examine them upon oath;

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

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

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

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

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

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

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

27 (1) Be governed by the commission on judicial tenure and discipline, pursuant to chapter  
28 16 of this title, in the same manner as justices and judges;

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

30 (3) Be subject to all criminal laws relative to judges by virtue of sections 11-7-1 and 11-  
31 7-2.

32 (4) Receive any salary that may be established by the state court administrator pursuant  
33 to section 8-15-4. The provisions of this section shall be afforded liberal construction.

34 SECTION 3. Section 8-8.2-1 of the General Laws in Chapter 8-8.2 entitled "Traffic

1 Tribunal" is hereby amended to read as follows:

2 **8-8.2-1. Establishment -- Rule-making authority -- Adjudication of violations.** -- (a)

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

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

27 (c) (1) Those judges of the administrative adjudication court in active service on July 1,  
28 1999 shall serve within the traffic tribunal. Whenever the total number of judges and magistrates  
29 in the traffic tribunal exclusive of the chief magistrate shall be less than seven (7), the chief  
30 justice of the supreme court, with the advice and consent of the senate, may, as needed, assign a  
31 duly qualified member of the bar of this state to act as a magistrate to fill such vacancy and shall  
32 submit his or her name to the senate for confirmation. In the event of a vacancy in the position of  
33 chief magistrate, the chief justice of the supreme court shall appoint a successor in accordance  
34 with subsection 8-8.2-1(a). Any magistrate assigned under this section shall serve a term of ten

1 (10) years and until a successor is appointed and qualified, and shall be in the unclassified service  
2 of the state. Nothing herein shall be construed to prohibit the assignment of a magistrate to more  
3 than one such term, subject to the advice and consent of the senate. Compensation for any such  
4 magistrate shall be determined by the chief magistrate of the traffic tribunal subject to  
5 appropriation by the general assembly but in no event shall the compensation be equal to or more  
6 than that of an associate judge of the district court. Magistrates of the traffic tribunal shall  
7 participate in the state retirement system in the same manner as all members of the unclassified  
8 service.

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

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

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

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

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

26 (h) Administrative/supervisory officials.

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

33 (2) There shall be a clerk of the traffic tribunal who shall be appointed by and serve at  
34 the pleasure of the chief magistrate of the traffic tribunal; provided, however, that, effective July

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

9 (i) Clerical Personnel/Court Recorders.

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

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

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

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

21 **8-10-3.1. Magistrates -- Appointment, duties, and powers.** -- (a) The ~~chief judge of the~~  
22 ~~family court~~ governor may ~~appoint~~ nominate magistrates, with the advice and consent of the  
23 senate, to assist the court in the conduct of its business. A person ~~appointed~~ nominated to serve as  
24 a magistrate shall be a member of the bar of Rhode Island and shall be chosen on the basis of  
25 merit, from a list submitted by the judicial nominating commission. The powers and duties of  
26 magistrates shall be prescribed in the order ~~appointing~~ nominating them.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 **8-10-3.2. General magistrate of the family court.** -- (a) There is hereby created within  
13 the family court the position of general magistrate of the family court who shall be ~~appointed~~  
14 ~~nominated~~ by the ~~chief judge of the family court~~ governor, on the basis of merit, from a list  
15 submitted by the judicial nominating commission, with the advice and consent of the senate for a  
16 term of ten (10) years and until a successor is ~~appointed~~ nominated and qualified. Nothing herein  
17 shall be construed to prohibit the ~~assignment~~ renomination of the general magistrate to more than  
18 one such term, subject to the advice and consent of the senate.

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

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

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

32 (e) The general magistrate shall:

33 (1) Receive all credits and retirement allowances as afforded justices under chapter 3 of  
34 this title and any other applicable law;



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

3 (3) Be entitled to a special license plate under section 31-3-47;

4 (4) Receive a salary equivalent to that of a district court judge;

5 (5) Be subject to all the provisions of the canons of judicial ethics; and

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

8 (f) The general magistrate of the family court who shall at the time of passage of this  
9 section hold the position of general magistrate, shall upon retirement, at his or her own request  
10 and at the direction of the chief justice of the supreme court, subject to the retiree's physical and  
11 mental competence, be assigned to perform such services as general magistrate of the family  
12 court, as the chief judge of the family court shall prescribe. When so assigned and performing  
13 such service, the general magistrate shall have all the powers and authority of general magistrate  
14 of the family court, but otherwise shall have no powers nor be authorized to perform any judicial  
15 duties. For any such service or assignments performed after retirement, the general magistrate  
16 shall receive no compensation whatsoever, either monetary or in kind. Such a retired general  
17 magistrate shall not be counted in the number of judicial officers provided by law for the family  
18 court.

19 (g) The provisions of this section shall be afforded liberal construction.

20 SECTION 5. Section 8-16.1-6 of the General Laws in Chapter 8-16.1 entitled "Judicial  
21 Selection" is hereby amended to read as follows:

22 **8-16.1-6. Nomination and appointment of judges. [Repealed effective June 30, 2013.]**

23 == (a) (1) The governor shall immediately notify the commission of any vacancy or prospective  
24 vacancy of a judge or magistrate of any state court other than the Rhode Island supreme court.  
25 The commission shall advertise for each vacancy and solicit prospective candidates and shall  
26 consider names submitted from any source. Within ninety (90) days of any vacancy the  
27 commission shall publicly submit the names of not less than three (3) and not more than five (5)  
28 highly qualified persons for each vacancy to the governor.

29 (2) Notwithstanding any other law to the contrary, any individual whose name was  
30 publicly submitted to the governor by the commission as described in subsection (1) above, shall  
31 also be eligible for subsequent nomination by the governor for any vacancy or prospective  
32 vacancy of a judge or magistrate in the same court for which that particular individual had  
33 previously applied except for a vacancy in the position of presiding justice, chief justice, or chief  
34 judge.

1           (3) Such individuals shall remain eligible for nomination to fill any vacancy or  
2 prospective vacancy within the same court to which they previously applied for a period of five  
3 (5) years from the date their name or names were publicly submitted to the governor by the  
4 commission unless such individuals withdraw from future consideration in writing to the judicial  
5 nominating commission. However, such individuals must reapply for any subsequent vacancy or  
6 prospective vacancy in the same court for the position of presiding justice, chief justice, or chief  
7 judge.

8           (4) Subject to the eligibility requirements set forth above, the governor shall fill any  
9 vacancy of any judge [or magistrate](#) of the Rhode Island superior court, family court, district court,  
10 workers' compensation court, or any other state court which the general assembly may from time  
11 to time establish, by nominating one of the three (3) to five (5) highly qualified persons  
12 forwarded to him or her by the commission for the court where the vacancy occurs, or by  
13 nominating another individual who has previously applied for a vacancy or prospective vacancy  
14 within the same court and whose name had been previously publicly submitted to the governor  
15 within the previous five (5) years.

16           (b) The governor shall fill any vacancy within twenty-one (21) days of the public  
17 submission by the commission.

18           (c) Each nomination shall be delivered forthwith to the secretary of the senate for  
19 presentation to the senate, and by and with the advice and consent of the senate, each nominee  
20 shall be appointed by the governor to serve subject to the general laws. The senate shall, after  
21 seven (7) calendar days of receipt of the nomination consider the nomination, but if the senate  
22 fails within ninety (90) days after the submission to confirm the nominee or if the senate does not  
23 by a majority vote of its members extend the deliberation an additional seven (7) calendar days,  
24 the governor shall appoint some other person to fill the vacancy and shall submit his or her  
25 appointment to the senate for confirmation in like manner until the senate shall confirm the  
26 nomination. If the nominee is rejected by the senate, the commission shall submit a new list of  
27 three (3) to five (5) candidates to the governor for the purpose of nomination in accordance with  
28 this chapter. Any new list may include but need not be limited to the names of any candidates  
29 who were previously submitted to the governor by the commission but who were not forwarded  
30 to the senate for its advice and consent.

31           (d) During the time for consideration of the nominees by the senate, the senate judiciary  
32 committee shall conduct an investigation and public hearing on the question of the qualifications  
33 of the nominee or nominees. At the public hearing, the testimony of every witness shall be taken  
34 under oath and stenographic records shall be taken and maintained. Further, the senate judiciary

1 committee shall during the course of its investigation and hearing have the power upon majority  
2 vote of the committee members present to issue witness subpoenas, subpoenas duces tecum, and  
3 orders for the production of books, accounts, papers, records, and documents which shall be  
4 signed and issued by the chairperson of the committee, or the person serving in his or her  
5 capacity. All such subpoenas and orders shall be served as subpoenas in civil cases in the superior  
6 court are served, and witnesses so subpoenaed shall be entitled to the same fees for attendance  
7 and travel as provided for witnesses in civil cases in the superior court. If the person subpoenaed  
8 to attend before the committee fails to obey the command of the subpoena without reasonable  
9 cause, refuse to be sworn, or to be examined, or to answer a legal and pertinent question, or if any  
10 person shall refuse to produce books, accounts, papers, records, and documents material to the  
11 issue, set forth in an order duly served on him or her, the committee by majority vote of the  
12 committee members present may apply to any justice of the superior court, for any county, upon  
13 proof by affidavit of the fact, for a rule or order returnable in not less than two (2) nor more than  
14 five (5) days, directing the person to show cause before the justice who made the order or any  
15 other justice of the superior court, why he or she should not be adjudged in contempt. Upon the  
16 return of the order, the justice before whom the matter is brought on for hearing shall examine  
17 under oath the person, and the person shall be given an opportunity to be heard, and if the justice  
18 shall determine that the person has refused without reasonable cause or legal excuse to be  
19 examined or to answer a legal and pertinent question, or to produce books, accounts, papers,  
20 records, and documents material to the issue which he or she was ordered to bring or produce, he  
21 or she may forthwith commit the offender to the adult correctional institution, there to remain  
22 until the person submits to do the act which he or she was so required to do, or is discharged  
23 according to law.

24 (e) The committee shall, for the purpose of investigating the qualifications of the  
25 nominee or nominees, be furnished with a report compiled by the state police in conjunction with  
26 the attorney general's office indicating the determinations and findings of the state police and  
27 attorney general's office investigations concerning the background of the nominee or nominees,  
28 and the report shall include, but not be limited to, the following:

29 (1) Whether the nominee has ever been convicted of or pleaded guilty to a misdemeanor  
30 or felony in this or any other state or foreign country;

31 (2) Whether the nominee has ever filed a personal bankruptcy petition or an assignment  
32 for the benefit of creditors in this or any other state or foreign country; and whether the nominee  
33 has ever been a partner in, held ten percent (10%) or more of stock in, or held office in any sole  
34 proprietorship, partnership, or corporation that has been involved in bankruptcy or receivership

1 actions as a debtor or because of insolvency at the time the nominee was a partner in, held ten  
2 percent (10%) or more stock in, or held office in any such sole proprietorship, partnership, or  
3 corporation;

4 (3) Whether the nominee has ever had a civil judgment rendered against him or her  
5 arising out of an allegation of fraud, misrepresentation, libel, slander, professional negligence, or  
6 any intentional tort in this state or any other state or foreign country;

7 (4) The state police in conjunction with the attorney general's department shall provide  
8 in their report the names and addresses of each and every source of their information.

9 (f) The reports set forth in this section shall be delivered to the chairperson and members  
10 of the senate judiciary committee in addition to the nominee or nominees only prior to the  
11 commencement of the public hearing. Provided, however, that if the nominee or nominees  
12 withdraw or decline the appointment prior to the public hearing then the report or reports shall be  
13 returned to the chairperson of the judiciary committee and destroyed.

14 (g) The committee shall also require a financial statement to be submitted by each  
15 nominee, prior to the public hearing, to the chairperson of the senate judiciary committee, to  
16 investigate each nominee to determine his or her compliance with the provisions of chapter 14 of  
17 title 36.

18 (h) Any associate justice of any state court who is appointed to serve as the chief or  
19 presiding justice of that court on an interim basis shall retain his or her status as an associate  
20 justice until the appointment to chief or presiding justice is made permanent.

21 (i) In case a vacancy shall occur when the senate is not in session, the governor shall  
22 appoint some person from a list of three (3) to five (5) persons submitted to the governor by the  
23 commission to fill the vacancy until the senate shall next convene, when the governor shall make  
24 an appointment as provided in this section.

25 **8-16.1-6. Nomination and appointment of judges. [Effective June 30, 2013.]** -- (a) The  
26 governor shall immediately notify the commission of any vacancy or prospective vacancy of a  
27 judge [or magistrate](#) of any state court other than the Rhode Island supreme court. The commission  
28 shall advertise for each vacancy and solicit prospective candidates and shall consider names  
29 submitted from any source. Within ninety (90) days of any vacancy the commission shall publicly  
30 submit the names of not less than three (3) and not more than five (5) highly qualified persons for  
31 each vacancy to the governor. The governor shall fill any vacancy of any judge [or magistrate](#) of  
32 the Rhode Island superior court, family court, district court, workers' compensation court, or any  
33 other state court which the general assembly may from time to time establish, by nominating one  
34 of the three (3) to five (5) highly qualified persons forwarded to him or her by the commission for

1 the court where the vacancy occurs.

2 (b) The governor shall fill any vacancy within twenty-one (21) days of the public  
3 submission by the commission.

4 (c) Each nomination shall be forwarded forthwith to the senate, and by and with the  
5 advice and consent of the senate, each nominee shall be appointed by the governor to serve  
6 subject to the general laws. The senate shall, after seven (7) calendar days of receipt of the  
7 nomination consider the nomination, but if the senate fails within ninety (90) days after the  
8 submission to confirm the nominee or if the senate does not by a majority vote of its members  
9 extend the deliberation an additional seven (7) calendar days, the governor shall appoint some  
10 other person to fill the vacancy and shall submit his or her appointment to the senate for  
11 confirmation in like manner until the senate shall confirm the nomination. If the nominee is  
12 rejected by the senate, the commission shall submit a new list of three (3) to five (5) candidates to  
13 the governor for the purpose of nomination in accordance with this chapter. Any new list may  
14 include but need not be limited to the names of any candidates who were previously submitted to  
15 the governor by the commission but who were not forwarded to the senate for its advice and  
16 consent.

17 (d) During the time for consideration of the nominees by the senate, the senate judiciary  
18 committee shall conduct an investigation and public hearing on the question of the qualifications  
19 of the nominee or nominees. At the public hearing, the testimony of every witness shall be taken  
20 under oath and stenographic records shall be taken and maintained. Further, the senate judiciary  
21 committee shall during the course of its investigation and hearing have the power upon majority  
22 vote of the committee members present to issue witness subpoenas, subpoenas duces tecum, and  
23 orders for the production of books, accounts, papers, records, and documents which shall be  
24 signed and issued by the chairperson of the committee, or the person serving in his or her  
25 capacity. All such subpoenas and orders shall be served as subpoenas in civil cases in the superior  
26 court are served, and witnesses so subpoenaed shall be entitled to the same fees for attendance  
27 and travel as provided for witnesses in civil cases in the superior court. If the person subpoenaed  
28 to attend before the committee fails to obey the command of the subpoena without reasonable  
29 cause, refuse to be sworn, or to be examined, or to answer a legal and pertinent question, or if any  
30 person shall refuse to produce books, accounts, papers, records, and documents material to the  
31 issue, set forth in an order duly served on him or her, the committee by majority vote of the  
32 committee members present may apply to any justice of the superior court, for any county, upon  
33 proof by affidavit of the fact, for a rule or order returnable in not less than two (2) nor more than  
34 five (5) days, directing the person to show cause before the justice who made the order or any

1 other justice of the superior court, why he or she should not be adjudged in contempt. Upon the  
2 return of the order, the justice before whom the matter is brought on for hearing shall examine  
3 under oath the person, and the person shall be given an opportunity to be heard, and if the justice  
4 shall determine that the person has refused without reasonable cause or legal excuse to be  
5 examined or to answer a legal and pertinent question, or to produce books, accounts, papers,  
6 records, and documents material to the issue which he or she was ordered to bring or produce, he  
7 or she may forthwith commit the offender to the adult correctional institution, there to remain  
8 until the person submits to do the act which he or she was so required to do, or is discharged  
9 according to law.

10 (e) The committee shall, for the purpose of investigating the qualifications of the  
11 nominee or nominees, be furnished with a report compiled by the state police in conjunction with  
12 the attorney general's office indicating the determinations and findings of the state police and  
13 attorney general's office investigations concerning the background of the nominee or nominees,  
14 and the report shall include, but not be limited to, the following:

15 (1) Whether the nominee has ever been convicted of or pleaded guilty to a misdemeanor  
16 or felony in this or any other state or foreign country;

17 (2) Whether the nominee has ever filed a personal bankruptcy petition or an assignment  
18 for the benefit of creditors in this or any other state or foreign country; and whether the nominee  
19 has ever been a partner in, held ten percent (10%) or more of stock in, or held office in any sole  
20 proprietorship, partnership, or corporation that has been involved in bankruptcy or receivership  
21 actions as a debtor or because of insolvency at the time the nominee was a partner in, held ten  
22 percent (10%) or more stock in, or held office in any such sole proprietorship, partnership, or  
23 corporation;

24 (3) Whether the nominee has ever had a civil judgment rendered against him or her  
25 arising out of an allegation of fraud, misrepresentation, libel, slander, professional negligence, or  
26 any intentional tort in this state or any other state or foreign country;

27 (4) The state police in conjunction with the attorney general's department shall provide  
28 in their report the names and addresses of each and every source of their information.

29 (f) The reports set forth in this section shall be delivered to the chairperson and members  
30 of the senate judiciary committee in addition to the nominee or nominees only prior to the  
31 commencement of the public hearing. Provided, however, that if the nominee or nominees  
32 withdraw or decline the appointment prior to the public hearing then the report or reports shall be  
33 returned to the chairperson of the judiciary committee and destroyed.

34 (g) The committee shall also require a financial statement to be submitted by each

1 nominee, prior to the public hearing, to the chairperson of the senate judiciary committee, to  
2 investigate each nominee to determine his or her compliance with the provisions of chapter 14 of  
3 title 36.

4 (h) Any associate justice of any state court who is appointed to serve as the chief or  
5 presiding justice of that court on an interim basis shall retain his or her status as an associate  
6 justice until the appointment to chief or presiding justice is made permanent.

7 (i) In case a vacancy shall occur when the senate is not in session, the governor shall  
8 appoint some person from a list of three (3) to five (5) persons submitted to the governor by the  
9 commission to fill the vacancy until the senate shall next convene, when the governor shall make  
10 an appointment as provided in this section.

11 SECTION 6. This act shall take effect upon passage.

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LC01895  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS

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1           This act would vest with the governor the sole authority to nominate, on the basis of  
2 merit, from a list submitted by the judicial nominating commission with the advice and consent of  
3 the senate, all judges and magistrates, to all courts.

4           This act would take effect upon passage.

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