

2015 -- H 5457

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO CRIMINAL PROCEDURE - PRELIMINARY PROCEEDINGS IN DISTRICT  
COURTS

Introduced By: Representatives Craven, Morin, Marshall, Amore, and Shekarchi

Date Introduced: February 12, 2015

Referred To: House Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-10-2 of the General Laws in Chapter 12-10 entitled "Preliminary  
2 Proceedings in District Courts" is hereby amended to read as follows:

3 **12-10-2. Powers of justices of the peace.** -- (a) (1) The chief judge of the district court  
4 shall from time to time appoint, with power to revoke the appointments, from those qualified  
5 justices of the peace who shall be members of the bar of the state of Rhode Island within the  
6 cities and towns and divisions of the district court, as many justices of the peace as he or she may  
7 deem necessary, who shall be authorized to set and take bail in all complaints bailable before a  
8 division of the district court except those offenses punishable by life imprisonment and, in default  
9 of bail, to commit to the adult correctional institutions all respondents arrested on those  
10 complaints. The chief judge shall authorize the justices of the peace, so appointed by him or her,  
11 to issue warrants and complaints returnable to the division of the district court for any offense for  
12 which by law a judge of the district court may issue a warrant and complaint, and all warrants so  
13 issued, and all warrants and complaints upon which bail is taken or commitments are made, shall  
14 be immediately returned to the divisions; provided, that the justices of the peace shall not in any  
15 case or for any purpose have the power to issue search warrants. The justices of the peace may  
16 also set and take bail, as provided in this section, commit and issue warrants (except search  
17 warrants) in any division where the defendant is being held by the state police, the metropolitan  
18 park police, conservation officers of the department of environmental management, a sheriff or

1 deputy sheriff, the capitol police, the campus security forces of the state colleges and universities,  
2 or city or town police forces.

3 (2) Whenever probable cause exists that a defendant is a violator of bail and/or probation  
4 in the district court or superior court, upon ~~being presented with a violation report by an attorney~~  
5 ~~for the state,~~ the attorney general's transmission of a notice of violation to the arresting agency or  
6 place of presentment, and upon making a finding that the defendant is subject to violation of bail  
7 and/or probation and that probable cause exists on the new charge being brought, the justice of  
8 the peace shall issue his or her writ of mittimus confining the defendant without bail and issue a  
9 writ of habeas corpus returnable to the next sitting of the district court and make a finding of  
10 probable violation in writing. The justice of the peace shall proceed to arraign the defendant on  
11 the new charge pursuant to subdivision (1) of this subsection. The justice of the peace shall return  
12 his or her writs and other documentation of a district court violation to the clerk of the district  
13 court; regarding any superior court violation the attorney for the state shall notify the clerk of the  
14 superior court for the county where the case originated for which a finding of probable violation  
15 was made of the finding of probable violation and the attorney for the state shall, on the same  
16 date, request a judge or magistrate of the superior court to issue a writ of habeas corpus for the  
17 purpose of a violation presentation before the superior court returnable to the next sitting of the  
18 superior court in the county.

19 (b) In misdemeanor cases a justice of the peace may accept pleas of not guilty in which  
20 case the justice of the peace may schedule a pre-trial conference date before a judge of the district  
21 court.

22 (c) In non-capital felony cases the justices of the peace may also schedule felony  
23 screening dates.

24 (d) The fee for the justices of the peace shall be fifty dollars (\$50.00) paid by each  
25 individual who appears before him or her; provided, that when a special session is requested  
26 between the hours of 11:00 p.m. and 8:00 a.m., the fee shall be arranged between the defendant  
27 and the justice of the peace but shall not exceed two hundred dollars (\$200). Justices of the peace  
28 shall have immunity for any actions taken pursuant to the provisions of this section.

29 SECTION 2. This act shall take effect on September 1, 2015.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would provide for the transmission of a notice of violation to the arresting  
2 agency or place of presentment by the attorney general upon a finding of probable cause that a  
3 defendant is a violator of his or her bail or probation in the District Court or Superior Court.

4           This act would take effect on September 1, 2015.

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