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LC001821

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS

Introduced By: Senators Lombardi, Archambault, Conley, and Nesselbush

Date Introduced: March 15, 2017

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 8-10-3.1 and 8-10-3.2 of the General Laws in Chapter 8-10  
2 entitled "Family Court" are hereby amended to read as follows:

3 **8-10-3.1, Magistrates -- Appointment, duties, and powers.**

4 (a) The chief judge of the family court may appoint magistrates, with the advice and  
5 consent of the senate, to assist the court in the conduct of its business. A person appointed to  
6 serve as a magistrate shall be a member of the bar of Rhode Island. The powers and duties of  
7 magistrates shall be prescribed in the order appointing them.

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

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

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

13 Magistrates shall be empowered to hear and ~~determine~~ decide all motions, pretrial  
14 conferences, arraignments, probable cause hearings, trials and dispositions of juvenile offenders  
15 alleged to be wayward or delinquent, ~~probable cause hearings, and review of all such matters,~~  
16 ~~including but not limited to,~~ and all motions, pretrial conferences, arraignments probable cause  
17 hearings, trials and dispositions regarding the ~~temporary~~ placement, custody, disposition and  
18 adoption of children, ~~orders of~~ child and spousal support, paternity, ~~final divorce decrees~~  
19 uncontested divorces, and other such administrative and ministerial tasks as defined by

1 administrative orders and assigned by the chief judge; ; and ~~the taking of~~ to take testimony and  
2 make findings of fact in ~~conducting~~ all contested hearings relative thereto. All orders of  
3 magistrates made pursuant to this chapter are subject to the review provided for in subsection (d).

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

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

13 (2) To do all acts and take all measures necessary or proper for the efficient performance  
14 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 imprisoned for not more  
21 than seventy-two (72) hours, pending review by a justice of the court, for failure to appear in  
22 response to a summons or for refusal to answer questions or produce evidence or for behavior  
23 disrupting a proceeding;

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

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

31 (d) A party aggrieved by an order entered by a magistrate shall be entitled to a review of  
32 the order by ~~a~~ the chief justice or an associate justice designated by the chief justice of the family  
33 court. Unless otherwise provided in the rules of procedure of the family court, such review shall  
34 be on the record and appellate in nature. The family court shall by rules of procedure establish

1 procedures for review of orders entered by a magistrate, and for enforcement of contempt  
2 adjudications of a magistrate.

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

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

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

11 (h) The magistrates may be authorized by the chief judge to hear those matters on the  
12 domestic abuse prevention calendar, ~~and~~ the nominal calendar, [the juvenile or domestic relations](#)  
13 [calendars](#).

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

15 **8-10-3.2. General magistrate of the family court.**

16 (a) There is hereby created within the family court the position of general magistrate of  
17 the family court who shall be appointed by the chief judge of the family court with the advice and  
18 consent of the senate for a term of ten (10) years and until a successor is appointed and qualified.  
19 Nothing herein shall be construed to prohibit the assignment of the general magistrate to more  
20 than one such term, subject to the advice and consent of the senate.

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

23 (c) ~~The primary function of the general magistrate shall be the enforcement of child~~  
24 ~~support decrees, orders, and law relative to child support.~~ The general magistrate shall have all  
25 the authority and powers vested in magistrates by virtue of §§ 8-10-3, 8-10-3.1, 9-15-19, 9-15-21,  
26 9-14-26, 9-18-8, 9-18-9, and [chapter 15 of title 15 including contested divorce actions and §36-2-](#)  
27 [3](#), and any other authority conferred upon magistrates by any general or public law or by any rule  
28 of procedure [or on the general magistrate by administrative order of the family court, executive](#)  
29 [order of the supreme court](#) or [the](#) practice of any court within the state.

30 (d) [All orders entered by the general magistrate shall be subject to review by the chief](#)  
31 [judge or an associate justice of the family court designated by the chief judge, in accordance with](#)  
32 [the rules of procedure of the family court.](#)

33 ~~(d)~~(e) The chief justice of the supreme court with the agreement of the chief judge of the  
34 family court may specially assign the general magistrate to any court of the unified judicial

1 system; provided, however, that the general magistrate may be assigned to the superior court  
2 subject to the prior approval of the presiding justice of the superior court. When the general  
3 magistrate is so assigned he or she shall be vested, authorized, and empowered with all the  
4 powers belonging to the magistrates of the court to which he or she is specially assigned.

5 ~~(e)~~(f) The general magistrate shall:

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

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

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

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

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

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

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

25 ~~(g)~~(h) The provisions of this section shall be afforded liberal construction.

26 SECTION 2. This act shall take effect upon passage.

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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 authorize magistrates to preside over additional matters that are heard  
2 before the family court.

3           This act would take effect upon passage.

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