

2017 -- S 0612

LC001818

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--PROCEDURE GENERALLY

Introduced By: Senators McCaffrey, 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 9-8-3 and 9-8-5 of the General Laws in Chapter 9-8 entitled
2 "Nonsuit and Discontinuance" are hereby amended to read as follows:

3 **9-8-3. Dismissal for lack of prosecution.**

4 (a) The supreme court, the superior court, the family court, ~~or~~ the district court, or the
5 traffic tribunal, may, at any time, in its discretion, dismiss actions at law and other proceedings
6 for lack of prosecution which have been pending for five (5) years or more, after notice and
7 opportunity for hearing.

8 (b) Notice that an action or proceeding will be in order for dismissal on a day certain
9 shall be given by the moving party (or by the clerk if upon the court's own motion) by mailing
10 written notice to the attorney of record, or if there is no attorney of record or the attorney has
11 deceased, then to the party if his or her address appears in the papers of the case. In the event
12 there is no attorney of record, or he or she is deceased, and the address of the party is unknown,
13 notice may be given by insertion of a newspaper advertisement published in a daily newspaper
14 which has circulation in the county or district where the action was instituted, at least once. A
15 certificate of the notice given shall be placed in the papers by the clerk.

16 **9-8-5. Annual action by court.**

17 (a) Thereafter during the first week in February in each year, or as soon as thereafter is
18 practicable, all actions at law, and other proceedings designated by the respective courts, deemed
19 by the court to be inactive and then pending in the supreme court, the superior court, the family

1 court, ~~of~~ the district court, or the traffic tribunal, for five (5) years or more, may be dismissed for
2 lack of prosecution, without costs. Entries of such dismissals shall be made as of course by the
3 clerk, upon order of the chief justice, presiding justice, ~~of~~ chief judges, or chief magistrate, of the
4 respective courts, after notice has been duly given of the date upon which the cases will stand
5 dismissed. The notice shall be given once a week for two (2) successive weeks at least three (3)
6 weeks before the date in a newspaper having general circulation in the county or district where
7 the action is pending.

8 (b) Upon the date any party desiring to be heard in opposition to dismissal of a case in
9 which he or she appears may appear before the respective court (in the superior court before the
10 presiding justice) and be heard thereon, and the court may in its discretion dismiss or stay
11 dismissal of the case for such period as it may fix. Extensions of the period may also be granted.
12 Any adversary party shall not be thereby prevented from making a special motion for dismissal
13 within the period so fixed or extended.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would add the Rhode Island traffic tribunal to the list of courts afforded the
2 ability to dismiss cases for lack of prosecution.

3 This act would take effect upon passage.

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