

2019 -- H 6090

LC002555

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- SUPERIOR COURT

Introduced By: Representatives Jackson, Corvese, Williams, Vella-Wilkinson, and
Maldonado

Date Introduced: May 09, 2019

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-2-39.2 of the General Laws in Chapter 8-2 entitled "Superior
2 Court" is hereby amended to read as follows:

3 ~~8-2-39.2. Drug court magistrate -- Appointment, duties and powers Rhode Island~~
4 superior court adult drug/recovery court magistrate -- Appointment, duties and powers.

5 (a) For the purposes of this chapter:

6 (1) "Non-violent" means and includes all charges that are not crimes of violence, the
7 following being a list of all charges considered to be crimes of violence for the purposes of this
8 section: murder, manslaughter, first-degree arson, kidnapping with intent to extort, robbery, first-
9 degree sexual assault, second-degree sexual assault, first- and second-degree child molestation,
10 assault, assault with intent to murder, assault with intent to rob, assault with intent to commit
11 first-degree sexual assault, entering a dwelling house with intent to commit murder, robbery, or
12 sexual assault.

13 (2) "Drug-addicted person" means a person who exhibits a maladaptive pattern of
14 behavior resulting from drug use, including one or more of the following: impaired control over
15 drug use; compulsive use; and/or continued use despite harm, and craving.

16 (b) There is hereby created within the superior court the position of ~~drug~~ superior court
17 adult drug/recovery court magistrate who shall be appointed by the presiding justice of the
18 superior court with the advice and consent of the senate. The persons appointed to serve as ~~drug~~
19 superior court adult drug/recovery court magistrates shall be members of the bar of Rhode Island.

1 The powers and duties of the ~~drug~~ superior court adult drug/recovery court magistrate shall be
2 prescribed in the order appointing him or her in addition to those described herein.

3 The ~~drug~~ superior court adult drug/recovery court magistrate's term shall be ten (10)
4 years and until a successor is appointed and qualified. Nothing in this section shall prohibit a ~~drug~~
5 superior court adult drug/recovery court magistrate from being reappointed for additional ten-year
6 (10) terms by the presiding justice of the superior court with the advice and consent of the senate.
7 He or she shall receive a salary equivalent to that received by the special magistrate assigned to
8 the superior court. The ~~drug~~ superior court adult drug/recovery court magistrate shall preside over
9 the ~~adult-drug~~ superior court adult drug/recovery court. The ~~adult-drug~~ superior court adult
10 drug/recovery court program shall combine the coercive powers of the court with a therapeutic
11 regimen in order to rehabilitate drug addicted defendants.

12 (c) The ~~drug~~ superior court adult drug/recovery court magistrate shall be empowered to
13 hear and decide as a superior court justice all matters relating to those adult offenders who come
14 before the jurisdiction of the superior court on any offense relating to the offender's participation
15 in the ~~adult-drug~~ superior court adult drug/recovery court. In addition, the ~~drug~~ superior court
16 adult drug/recovery court magistrate shall have the power to impose a period of incarceration
17 upon a plea of guilty or nolo contendere, and also have the power to confine any person who has
18 been found to be in violation of any conditions previously imposed by the superior court.

19 (d) The ~~drug~~ superior court adult drug/recovery court magistrate shall make the final
20 determination as to whether a defendant is admitted into the program. Individuals meeting the
21 following criteria shall be screened by staff working at the office of the attorney general upon the
22 department's own referral; upon a request by counsel entered on behalf of a defendant; upon
23 request by a judge of the superior or district court, or, in the case of a person waivable by the
24 family court, by a judge of that court; or the department of corrections for admittance into the
25 ~~adult-drug~~ superior court adult drug/recovery court:

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

28 (2) The individual has no pending charges for felony crimes of violence.

29 (3) The individual has no pending charges for delivery of a controlled substance.

30 (4) The defendant is a drug-addicted person.

31 (e) All individuals accepted into ~~drug~~ superior court adult drug/recovery court will be
32 bound by a ~~drug~~ superior court adult drug/recovery court contract, as defined by the ~~adult-drug~~
33 superior court adult drug/recovery court, that sets forth the court's expectations; the role and
34 responsibilities of the ~~drug~~ superior court adult drug/recovery court; the conditions imposed upon

1 and the responsibilities of the defendant; and the treatment plan goals and strategies. If a
2 defendant fails to abide by the ~~drug~~ superior court adult drug/recovery court conditions and
3 orders, he or she may be terminated from the program by the ~~drug-court-judge~~ superior court adult
4 drug/recovery court magistrate and sentenced as he or she deems appropriate.

5 (f) The ~~drug~~ superior court adult drug/recovery court magistrate shall be empowered to
6 hear and decide as a superior court justice all matters that may come before the superior court
7 pursuant to chapter 37.1 of title 11 "sexual offender registration and community notification."

8 (g) The ~~drug~~ superior court adult drug/recovery court magistrate and/or the presiding
9 justice of the superior court may fix the venue of any person who is before the superior court as a
10 participant in the ~~adult-drug~~ superior court adult drug/recovery court or who is alleged to be a
11 sexual predator, and who has filed an objection to community notification.

12 (h) In addition, at the discretion of the presiding justice of the superior court, the ~~drug~~
13 superior court adult drug/recovery court magistrate shall have the duties, responsibilities, and
14 powers authorized in subsections 8-2-39(b), (c) and (d).

15 (i) The ~~drug~~ superior court adult drug/recovery court magistrate shall be governed by the
16 commission on judicial tenure and discipline, chapter 16 of title 8, in the same manner as justices
17 and judges; shall be subject to all provisions of the canons of judicial ethics or code of judicial
18 conduct; and shall be subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-
19 7-2.

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

27 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 -- SUPERIOR COURT

1 This act would change the name of the drug court magistrate to the "Rhode Island
2 superior court adult drug/recovery court magistrate and change the name of the court to the
3 "Rhode Island superior court adult drug/recovery court".

4 This act would take effect upon passage.

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