

2021 -- H 6174

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- DNA DEFENDER ADVOCATES PROGRAM

Introduced By: Representatives McNamara, Craven, and McEntee

Date Introduced: March 26, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 12-1.5 of the General Laws entitled "DNA Detection of Sexual and
2 Violent Offenders" is hereby amended by adding thereto the following section:

3 **12-1.5-19. Volunteer DNA defender advocates program.**

4 (a) The office of the public defender, in conjunction with the volunteer lawyer program of
5 the Rhode Island Bar Association, shall institute a volunteer DNA defender advocates program.
6 The program shall permit students at an accredited law school who have at a minimum completed
7 their second year of law school and who have successfully completed a course on courtroom
8 evidence and a course on criminal procedure, to serve as volunteer DNA defender advocates.
9 Volunteer DNA defender advocates shall work under the supervision of either an attorney from the
10 office of the public defender or a volunteer lawyer assigned through the Rhode Island Bar
11 Association (the "supervising attorney"). Volunteer attorneys may also serve as DNA defender
12 advocates through the volunteer lawyer program of the Rhode Island bar association.

13 (b) Volunteer DNA defender advocates shall be permitted to do the following:

14 (1) Represent defendants or individuals previously charged with a criminal offense wherein
15 DNA evidence was at issue in the case, at hearings on expungement of their DNA record or profile
16 in the databank, and any other matter which may be subject to a petition under § 12-1.5-13; and

17 (2) Work on issues related to the use and/or preclusion of DNA evidence in a legal
18 proceeding involving a defendant, including at the trial stage or on an appeal.

19 (c) The volunteer DNA defender advocates shall work under the direction and auspices of

1 their supervising attorney. Volunteer DNA defender advocates may appear as an advocate in a case
2 of record, but their appearance shall be a special appearance as a DNA defender advocate, limited
3 to the roles set forth in subsection (b) of this section.

4 (d) A defendant or client may decline to be represented in any capacity by a volunteer DNA
5 defender advocate.

6 (e) The Rhode Island bar association, in conjunction with the office of the public defender,
7 shall develop a continuing legal education course on DNA and the provisions of chapter 1.5 of title
8 12 for volunteer DNA defender advocates and their supervising attorneys. This course shall be
9 offered free of charge to DNA defender advocates and supervising attorneys; provided, however,
10 the bar association may charge a reasonable fee for other attorneys who wish to attend. A volunteer
11 DNA defender advocate who is not an attorney shall be required to complete this course prior to
12 appearing in a case.

13 (f) Volunteer DNA defender advocates who are not licensed attorneys shall not be subject
14 to any civil claims for malpractice. Volunteer DNA defender advocates who are attorneys shall be
15 covered by the malpractice insurance provided by the Rhode Island Bar Association for volunteer
16 lawyers.

17 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 CRIMINAL PROCEDURE -- DNA DEFENDER ADVOCATES PROGRAM

- 1 This act would establish a volunteer DNA defender advocates program, to allow law
- 2 students who have met certain requirements to assist in the representation of persons in regard to
- 3 expungement of DNA records and the use of DNA evidence in a criminal trial.
- 4 This act would take effect upon passage.

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