

**State of Rhode Island and Providence Plantations**

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**JOURNAL**  
**-OF THE-**  
**HOUSE OF REPRESENTATIVES**

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**JANUARY SESSION of the General Assembly begun and held at the State House in the City of Providence on Tuesday, the fourth day of January in the year of Our Lord two thousand and five.**

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Volume 132, No. 22

Thursday, March 3, 2005

Twenty-second Day

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The House of Representatives meets at the State House in Providence, Thursday, March 3, 2005 and is called to order at 4:18 o'clock P.M., by the Honorable William J. Murphy, Speaker.

The roll is called and a quorum is declared present with 70 members present and 5 members absent as follows:

PRESENT - 70: The Honorable Speaker Murphy and Representatives Ajello, Almeida, Amaral, Brien, Caprio, Carter, Coderre, Corvese, Costantino, Crowley, Davey, Dennigan, DeSimone, Diaz, Ehrhardt, Faria, Flaherty, Fox, Gallison, Gemma, Giannini, Ginaitt, Gorham, Handy, Jackson, Kennedy, Kilmartin, Lally, Landroche, Laroche, Lewiss, Lima, Long, Loughlin, Malik, McCauley, McHugh, McManus, McNamara, Melo, Menard, Moffitt, Moran, Moura, Mumford, Naughton, O'Neill, Pacheco, Palumbo, Petrarca, Picard, Rice, Rose, San Bento, Savage, Schadone, Shanley, Singleton, Slater, Smith, Story, Sullivan, Trillo, Ucci, Voccola, Wasyluk, Watson, Williams, Winfield.

ABSENT – 5: Representatives Anguilla, Church, Jacquard, Scott, Williamson.

**INVOCATION**

The Honorable Speaker presents Representative Giannini who delivers the Invocation and leads the membership in the Pledge of Allegiance to the Flag.

(For Invocation, see Appendix, this Journal.)

**APPROVAL OF RECORD**

By unanimous consent, the House Journal of Wednesday, March 2, 2005 is approved as printed.

**REPORTS OF COMMITTEES  
COMMITTEE ON HEALTH, EDUCATION AND WELFARE**

Representative McNamara, for the Committee on Health, Education and Welfare, reports back the following measure, with recommendation of passage:

**House Resolution No. 5739**

**BY** Ajello

**ENTITLED**, HOUSE RESOLUTION CONGRATULATING ROTARY INTERNATIONAL AND THE ROTARY AND ROTARACT CLUBS OF DISTRICT 7950 ON THEIR CENTENNIAL ANNIVERSARY, AND THE ROTARY CLUB OF PROVIDENCE #22

{LC2252/1}

03/03/2005 Placed on House Calendar

**House Resolution No. 5740** as amended

**BY** Slater, Naughton, Williams, Dennigan, Coderre E

**ENTITLED**, JOINT RESOLUTION CREATING A SPECIAL LEGISLATIVE COMMISSION TO STUDY THE NEWLY ADOPTED PROVISIONS FOR EARLY INTERVENTION UNDER THE FEDERAL DISABILITIES EDUCATION ACT OF 2004, P.L.

108 - 446 {LC1472/1}

03/03/2005 Placed on House Calendar

**House Resolution No. 5741**

**BY** Jacquard, Lewiss, Schadone

**ENTITLED**, HOUSE RESOLUTION CREATING A SPECIAL HOUSE COMMISSION TO STUDY EXCESSIVE NOISE IN PUBLIC PLACES AND THE HAZARD THEREOF

{LC2364/1}

03/03/2005 Placed on House Calendar

**COMMITTEE ON SEPARATION OF POWERS**

Representative Coderre, for the Committee on Separation of Powers, reports back the following measure, with recommendation of passage:

**House Bill No. 5817** as amended

**BY** Coderre E, Ginaitt, Kilmartin, Crowley, Lima

**ENTITLED**, AN ACT RELATING TO SEPARATION OF POWERS (abolish several boards and commissions) {LC2439/1}

03/03/2005 Placed on House Calendar

## NEW BUSINESS

**House Bill No. 6152****BY** Smith**ENTITLED**, AN ACT RELATING TO EDUCATION - CURRICULUM (alternative 1 education program to educate students who are removed from the classroom because of a suspension) {LC702/1}

03/03/2005 Introduced, referred to House H.E.W.

**House Bill No. 6153****BY** Lewiss, Kennedy, McHugh**ENTITLED**, AN ACT RELATING TO THE WESTERLY FIRE DISTRICT {LC2469/1}

03/03/2005 Introduced, referred to House Corporations

**House Bill No. 6154****BY** Lima, Kilmartin, Moura, Slater, Coderre E**ENTITLED**, AN ACT RELATING TO EDUCATION -- THE RHODE ISLAND STUDENT INVESTMENT INITIATIVE (kindergarten plus incentive fund/money used to fund summer instruction programs) {LC2694/1}

03/03/2005 Introduced, referred to House Finance

**House Bill No. 6155****BY** McNamara, Winfield, Petrarca**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT - CHILD CARE PROVIDERS AND CHILD-PLACING AGENCIES (establish a moratorium on fees imposed on child care providers and would establish a study commission to study the impact of licensing fees) {LC2683/1}

03/03/2005 Introduced, referred to House Finance

**House Bill No. 6156****BY** Lima**ENTITLED**, AN ACT RELATING TO MOTOR VEHICLE OFFENSES (subject passengers of mv to a license suspension if known that the driver of the mv was operating under the influence of alcohol) {LC2634/1}

03/03/2005 Introduced, referred to House Judiciary

**House Bill No. 6157****BY** Moura, Kilmartin, Lima**ENTITLED**, AN ACT RELATING TO SOVEREIGN IMMUNITY (cause of action) {LC148/1}

03/03/2005 Introduced, referred to House Judiciary

**House Bill No. 6158****BY** Jackson, Rice**ENTITLED**, AN ACT RELATING TO PROPERTY - MORTGAGE DISCHARGE (create an alternate method by which a mortgage discharge can be recorded using an affidavit) {LC2309/1}

03/03/2005 Introduced, referred to House Judiciary

**House Bill No. 6159****BY** Malik, Slater, Schadone**ENTITLED**, AN ACT RELATING TO HEALTH AND SAFETY -- WORKPLACE SAFETY ACT (remove the exemption for Class C and D liquor license holders/also exempt charitable organizations/holding "cigar night"(s) fund raisers) {LC2557/1}

03/03/2005 Introduced, referred to House Labor

**House Resolution No. 6160****BY** Faria**ENTITLED**, HOUSE RESOLUTION CREATING A SPECIAL HOUSE COMMISSION TO STUDY AUTO BODY AND SALVAGE SHOPS {LC2693/1}

03/03/2005 Introduced, referred to House Labor

**House Resolution No. 6161****BY** Faria**ENTITLED**, HOUSE RESOLUTION EXTENDING THE REPORTING DATE OF THE SPECIAL HOUSE COMMISSION TO STUDY TEMPORARY WORKERS THROUGHOUT THE STATE OF RHODE ISLAND {LC2692/1}

03/03/2005 Introduced, referred to House Labor

**House Bill No. 6162****BY** Rice, Lima, Coderre E**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- ADDRESS CONFIDENTIALITY FOR VICTIMS OF DOMESTIC VIOLENCE AND HATE CRIMES (remove certain barriers to the receipt of state/local services for victims of domestic violence/hate crimes who risk the disclosure of their residence to their assailant) {LC2475/1}

03/03/2005 Introduced, referred to House Judiciary

**House Bill No. 6163****BY** Church**ENTITLED**, AN ACT AUTHORIZING THE TOWN OF NORTH SMITHFIELD TO FINANCE THE ACQUISITION OF LAND FOR A NEW MIDDLE SCHOOL AND IT'S FACILITIES AND THE CONSTRUCTION AND EQUIPPING OF A NEW MIDDLE SCHOOL AND IT'S FACILITIES IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$30,000,000 BONDS AND/OR NOTES THEREFOR {LC2583/1}

03/03/2005 Introduced, referred to House Corporations

**House Bill No. 6164****BY** Coderre E, Crowley, Almeida, Gemma, Kilmartin**ENTITLED**, AN ACT RELATING TO SEPARATION OF POWERS {LC2689/1}

03/03/2005 Introduced, referred to House Separation of Powers

**COMMUNICATION FROM THE SENATE**

A message from the Honorable Senate transmits with announcement of passage, of the following measures:

**Senate Bill** No. 151 SUB A

**BY** Walaska, Bates

**ENTITLED**, AN ACT RELATING TO INSURANCE -- UNFAIR COMPETITION AND PRACTICES (late fee imposed) {LC954/1/A}

03/03/2005 Referred to House Corporations

**Senate Bill** No. 210 SUB A

**BY** Walaska, Bates

**ENTITLED**, AN ACT RELATING TO INSURANCE -- CONTINUING EDUCATION REQUIREMENTS (reduce number of years from 25 to 20 to persons over 55 who hold an insurance license to qualify for continuing education exemption) {LC1194/1/A}

03/03/2005 Referred to House Corporations

**Senate Bill** No. 857

**BY** Tassoni

**ENTITLED**, AN ACT AUTHORIZING THE TOWN OF NORTH SMITHFIELD TO FINANCE THE ACQUISITION OF LAND FOR A NEW MIDDLE SCHOOL AND IT'S FACILITIES AND THE CONSTRUCTION AND EQUIPPING OF A NEW MIDDLE SCHOOL AND IT'S FACILITIES IN THE TOWN BY THE ISSUANCE OF NOT MORE THAN \$30,000,000 BONDS AND/OR NOTES THEREFOR {LC2584/1}

03/03/2005 Referred to House Corporations

**Senate Bill** No. 735

**BY** Levesque C

**ENTITLED**, AN ACT RELATING TO SOLEMNIZATION OF MARRIAGES {LC2093/1}

03/03/2005 Referred to House Judiciary

**CALENDAR**

From the Calendar is taken:

**IN ORDER FOR THURSDAY, MARCH 3, 2005:****1 2005-H 5041**

**BY** Crowley

**ENTITLED**, AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT -- NEWPORT COUNTY CONVENTION AND VISITORS' BUREAU

Committee on Separation of Powers recommends passage.

Read, and by unanimous consent, ordered to be placed on the Calendar for Tuesday, March 8, 2005.

**ANNOUNCEMENTS**

Representative Faria announces that the Committee on Labor will meet today, at the rise of the House, in Room 201 of the State House.

**GUESTS**

Representatives Crowley, Moura, and Naughton welcome to the House Chamber as a guest Alan Solow, Executive Director, Council of State Governments, Eastern Region Conference.

Representative McHugh welcomes to the House as a guest his niece, Stephanie Rotaturi.

Representative Caprio welcomes the Chamber Kim McHugh, wife of Representative McHugh.

**STATE OF JUDICIARY ADDRESS**

Chief Justice Frank J. Williams addresses the members of the House of Representatives after adjournment.

(For Judge Williams state address see appendix of this Journal.)

**ADJOURNMENT**

At 4:27 o'clock P.M. on motion of Representative Mumford, and as a further mark of respect to the memory of Richard Finnegan; on motion of Representative Jackson, and as a further mark of respect to the memory of Cross Benedetto Toti; on motion of Representative Carter and as a further mark of respect to the memories of John Jacob Hopkinson, Sam T. King, Jr., Joan M. (Doorley) Knudde; on motion of Representatives Carter and Ehrhardt and as a further mark of respect to the memory of Gordon W. Crossman, Jr.; on motion of Representative Naughton, and as a further mark of respect to the memory of Lee Robinson seconded by Representatives Fox and Watson the House adjourns, on a unanimous rising vote.

**Linda M. McElroy**  
**Recording Clerk**

**APPENDIX**

**INVOCATION**

**REPRESENTATIVE JOANNE M. GIANNINI**

Lord may it be Thy will, not our own, which governs our deliberations this day. Amen

## APPENDIX

## CALENDAR

## IN ORDER FOR TUESDAY, MARCH 8, 2005:

**1 2005-H 5041****BY Crowley****ENTITLED,** AN ACT RELATING TO STATE AFFAIRS AND GOVERNMENT --  
NEWPORT COUNTY CONVENTION AND VISITORS' BUREAU

Committee on Separation of Powers recommends passage.

## IN ORDER FOR WEDNESDAY, MARCH 9, 2005:

**1 2005-H 5227****BY Gallison****ENTITLED,** AN ACT VALIDATING AND RATIFYING AMENDMENTS TO THE  
CHARTER OF THE TOWN OF BRISTOL

Committee on Corporations recommends passage.

**2 2005-H 5739****BY Ajello****ENTITLED,** HOUSE RESOLUTION CONGRATULATING ROTARY  
INTERNATIONAL AND THE ROTARY AND ROTARACT CLUBS  
OF DISTRICT 7950 ON THEIR CENTENNIAL ANNIVERSARY, AND  
THE ROTARY CLUB OF PROVIDENCE #22

Committee on Health, Education &amp; Welfare recommends passage.

**3 2005-H 5740 as amended****BY Slater****ENTITLED,** JOINT RESOLUTION CREATING A SPECIAL LEGISLATIVE  
COMMISSION TO STUDY THE NEWLY ADOPTED PROVISIONS  
FOR EARLY INTERVENTION UNDER THE FEDERAL  
DISABILITIES EDUCATION ACT OF 2004, P.L. 108 - 446

Committee on Health, Education &amp; Welfare recommends passage as amended.

**4 2005-H 5741****BY Jacquard****ENTITLED,** HOUSE RESOLUTION CREATING A SPECIAL HOUSE  
COMMISSION TO STUDY EXCESSIVE NOISE IN PUBLIC  
PLACES AND THE HAZARD THEREOF

Committee on Health, Education &amp; Welfare recommends passage.



**5 2005-H 5817 as amended**

**BY Coderre E**

**ENTITLED, AN ACT RELATING TO SEPARATION OF POWERS**

Committee on Separation of Powers recommends passage as amended.

***Louis D'Antuono***  
***Clerk of the House***

**Thursday, March 3, 2005**

## APPENDIX

**Chief Justice Frank J. Williams  
State of the Judiciary Address  
Rhode Island House of Representatives  
March 3, 2005**

**Building a History of Justice and a Legacy of Independence**

Thank you.

Speaker Murphy, Majority Leader Fox, Minority Leader Watson, honorable members of the Rhode Island House of Representatives, my esteemed colleagues from the Rhode Island Judiciary: it is an honor and a pleasure to appear before you to deliver my fourth annual State of the Judiciary.

In 1788, a group of men gathered in Philadelphia to build the framework for the great American experiment. Among the delegates was Alexander Hamilton, who in Federalist Paper 78 stressed the importance of an independent judiciary. Judges, he said, would require great fortitude to act as the faithful guardians of the courts of justice. Hamilton understood that government would become too weak - or too strong - without an independent judiciary to interpret the laws, decide controversies, and enforce individual rights.

Through our state's history, we have endeavored to build within this framework a judiciary which would honor, preserve, and promote what I call the last refuge of democracy.

Now, I know not everyone agrees with my style, some say I am too visible, too vocal, too willful, too impatient. Well, maybe they have a point ... but this is who I am. I have never wavered in my commitment to serve with honor or in my belief that the citizens of our state have the right to demand access to our courts and the services we provide.

We have achieved much since I was honored to take the oath of office on February 6, 2001.

These achievements were possible because of your willingness to listen and consider our priorities, and because of the hard work of my fellow judges and judicial staff.

At that time, I said the Judiciary needed to concentrate on improving accessibility, technology, infrastructure, education, and outreach. The state of the judiciary this year seems an appropriate time to look back over the past four years - to measure our accomplishments against those earlier goals. A time for an accounting, a report card of sorts on what we have achieved and the challenges we still face.

We continue to make justice accessible by responding to changes in our population.

- We have expanded mediation to the appellate level with 36% of cases successfully mediated.
- We have instituted problem solving courts - for business litigation, troubled kids, truant students, and substance abusers.

- An instructional video, free parking, and a reduced service requirement make jury service less burdensome.
- And we have added six new Spanish speaking interpreters to help non English speaking litigants, witnesses, and court users.

We have modernized the Judiciary's outdated and inefficient computer system.

- Do you remember when I first came to you asking for help with replacing our antiquated WANG system? Well, thanks to you, the first court switches over to the new system this month and other courts will soon follow. The project will be completed by January 2006.
- Already, criminal information is available through the Internet.
- On the topic of websites, I took some ribbing about my short lived personal site, but certainly more noteworthy is the award winning judicial website - updated in design and format, making it easier to navigate and read.
- The Judiciary, in concert with the Department of Corrections, and the Department of Administration, have worked to expand the use of video conferencing. District Court is already reaping the benefits of this technology and future use should alleviate overcrowding in court cellblocks and reduce security risks and expenses incurred in transporting prisoners from the ACI.
- Modernizing the State Law Library will enable us to cancel some subscriptions - saving \$100,000 a year.

We have made significant strides in reaching school children.

- Our K-12 legal education curriculum called *Justice Rules*, teams attorneys and judges with teachers and classrooms to build positive relationships with students, to encourage kids to explore careers in the Judiciary, and to teach them about the judicial system. *Justice Rules* now reaches close to 50,000 school children across the state.
- Our *Operation Phoenix* initiative donated refurbished computers to schools in Woonsocket, Central Falls, and Pawtucket.
- Members of the judicial family donated over 1,500 books to classrooms and libraries in schools with the greatest need.
- A partnership with Providence College's advanced language department gives students credit for evaluating French and Spanish translations on our judicial website.

We have built community relationships through an ambitious outreach program.

- A new televised Citizens' Summit encourages dialogue on judicial issues. Our first program - aired on Channels 36 and 12 - invited parents, teachers, and students to discuss Truancy Court and its benefits for our children.

- The Supreme Court continues to hold sessions in the community, traveling to the Portsmouth and Westerly High Schools this past year and sitting at Bryant University in Smithfield next month.
- For the past two years, as part of our efforts to reach the state's fastest growing minority population, our judges have taken calls on Spanish radio.

In the past, court buildings were unfit to accommodate the demands placed upon them. That is changing.

- With full control over all judicial buildings including heating, ventilation, and air conditioning, there is a more efficient regulation of our resources.
- The new Kent County Courthouse is an architectural masterpiece. We anticipate moving in by December of this year.
- We are moving forward with plans for a courthouse in Northern Rhode Island. Next year, the certificates of participation will be ready for your review and hopefully approved.
- Although the Garrahy Judicial Complex remains crowded, the staircases are now open, reducing elevator congestion.
- The schematics and elevations for a new Traffic Tribunal have already been approved and groundbreaking should be this June with expected completion in the Fall of 2006. The new facility will be located at the entrance to the John O. Pastore Government Center.

Our courts are busier than ever. In just the last three years, our caseload has jumped 9 percent - 233,000 cases disposed of in 2004 – yet, we continue to hold our spending to only 1.3% of the state's entire budget.

And for the third year in a row, we will not request a supplemental budget.

Our requested Fiscal Year 2006 budget is once again frugal - we ask only for a modest increase of \$900,000 to maintain current services.

This legislative session, we mark the implementation of a new budget protocol that safeguards judicial independence. This initiative reflects true separation of powers – placing with the Legislative Branch, rather than the Executive Branch, the authority to allocate funds for the Judiciary.

Unfortunately, the Governor's office failed to comply with the new protocol and adjusted our budget request before passing it to you - throwing our budget into a \$3.2 million dollar shortfall. We look to you to adjust this appropriately.

Motivated by our desire to draw clear lines separating the three branches of government, we are seeking to transfer some programs out of the Judiciary to the branch of government where they belong.

Simply stated, it is inappropriate for the Judiciary to continue performing some of the functions currently assigned to it. We are asking that the administration of indigent defense, management of witness fees, oversight of the Domestic Violence Unit, and supervision of the Fugitive Task Force be transferred out of the Judicial Branch.

This request means transferring 10 full-time positions and the accompanying funding out of the Judiciary. I know that giving up a multi-million dollar program, 10 jobs, and control over some governmental functions may appear politically naïve. But frankly, I don't care. This is what's right. This is what's honorable. And this is what the citizens deserve.

We continue to cultivate new ways to serve with justice, independence, and honor.

A planned Center for Court Innovation will promote programs to improve our courts and to build on the already strong foundations of leadership, community partnerships, efficiency, and accessibility.

Mindful that the success of our Judiciary is measured not only by disposition rates but also in real human terms, we are exploring ways to serve effectively and efficiently with compassion.

Among the initiatives being considered - a statewide, integrated Domestic Violence Court.

In Family Court, where the judicial tasks are often heartbreaking, we are seeking to appoint two new mediators to handle issues involving child custody and termination of parental rights. Children should never be held hostage by prolonged and hostile litigation.

We will be building on the success of our court interpreter program by requesting two new interpreters – one who speaks Portuguese and Cape Verdean and one who can communicate with members of Rhode Island's growing Southeast Asian community.

We are continuing to implement new programs which take advantage of new technology. Computer links between the Judiciary and the law enforcement community will allow victims to access information about their cases.

In the near future, your constituents will be able to watch gavel-to-gavel coverage of high profile trials from their living rooms. School students can witness trials in their entirety instead of in ten second sound bites.

Drawing on our Judiciary's rich past, we are creating a Judicial Living History exhibit. This traveling exhibit will feature:

- original handwritten documents from cases involving Native Americans and the original settlers,
- the 1718 coroner's inquest into the state's first malpractice case, and

- the 1845 execution papers for the last prisoner hanged in Rhode Island.

Without question, we are grateful for the support that we have received from this House of Representatives and the Senate in the past, and we are certainly mindful of the fiscal constraints under which the state operates. We also know that the state benefit package is overdue for adjustment, and of course members of the Judiciary should expect to contribute to healthcare insurance premiums along with other state workers.

It is also time to look at salary adjustments for members of the Judiciary. This marks the third straight year without even a cost of living increase. The gulf that separates judicial pay from compensation in the private sector grows larger and larger. When adjusted for economic conditions, Rhode Island jurists are among the lowest paid in the nation - 43<sup>rd</sup>.

With the anticipated abolishment of the Unclassified Pay Plan Board, we created the Judicial Wage Review Committee to examine the issues surrounding judicial compensation. Justice Francis X. Flaherty chairs this committee which is made up of a cross-section of prominent Rhode Island citizens. I expect to receive its recommendations shortly.

I began this speech with a historical note, recognizing the continuum of our judicial system and the relatively small amount of time during which it is entrusted to us. Whether we can accomplish what we have undertaken depends on the ongoing collaboration between our three branches of government and the support of the public we serve.

Many of you accepted the invitation to our first Legislative Law Day and witnessed firsthand the work we do in the Judiciary. From video conferencing in Superior Court, heartbreaking juvenile cases in Family Court, arraignments in District Court, trials in Workers' Compensation Court, and even a brief tour of the cell block, you saw the challenges we face every day in our court system.

We intend to offer this opportunity bi-annually. Only by keeping the lines of communication open, can we hope to achieve a better understanding of our joint mission to serve the citizens of our state.

Brick by brick, program by program, person by person, the Rhode Island Judiciary is building a history of justice and a legacy of independence. And we continue to bridge our accomplishments of the past with honorable service to Rhode Island's future.

As John Quincy Adams said, "Standing at this point of time, looking back to that generation which has gone by and forward to that which is advancing, we may at once indulge in grateful exultation and in cheering hope. From the experience of the past we derive instructive lessons for the future."

Thank you for this opportunity to address you. I look forward to working with you in the future. May God bless you and the State of Rhode Island.