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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - SUPERIOR COURT

Introduced By: Representatives Flaherty, Lally, and Petrarca

Date Introduced: March 03, 2011

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 8-2-11.1, 8-2-39, 8-2-39.1 and 8-2-39.2 of the General Laws in
2 Chapter 8-2 entitled "Superior Court" are hereby amended to read as follows:

3 **8-2-11.1. Administrator/magistrate.** -- (a) Any person holding the position of
4 administrative clerk in the superior court who is a member of the bar of Rhode Island may be
5 appointed administrator/magistrate for a term of ten (10) years and until a successor is appointed
6 and qualified, by the presiding justice, with the advice and consent of the ~~senate~~ [house of](#)
7 [representatives](#), in his or her capacity as administrative judge. Nothing herein shall be construed
8 to prohibit the assignment of an administrator/magistrate to more than one such term, subject to
9 the advice and consent of the ~~senate~~ [house of representatives](#). Any magistrate in service as of
10 January 1, 2008 who serves at the pleasure of the presiding justice of the superior court may be
11 appointed for a term of ten (10) years with the advice and consent of the ~~senate~~ [house of](#)
12 [representatives](#) and until a successor is appointed and qualified.

13 (b) (1) The administrator/magistrate shall have the power to hear and determine such
14 matters as may be assigned to the administrator/magistrate by the presiding justice all to the same
15 effect as if done by a justice of the superior court.

16 (2) Without limiting the generality of the foregoing powers and authority, the
17 administrator/magistrate is authorized and empowered to hear and determine motions in civil and
18 criminal proceedings, formal and special causes, to conduct arraignments, to grant or deny bail, to
19 accept pleas of not guilty, guilty, or novo contender, and to impose sentence on a plea of guilty or

1 novo contender, all to the same effect as if done by a justice of the superior court.

2 (c) The administrator/magistrate may be authorized:

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

4 (2) To do all acts and take all measures necessary or proper for the efficient performance
5 of his or her duties;

6 (3) To require the production before him or her of books, papers, vouchers, documents,
7 and writings;

8 (4) To rule upon the admissibility of evidence;

9 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
10 examine them, and to call parties to the proceeding and examine them upon oath;

11 (6) To adjudicate a person in contempt and to order him or her imprisoned for not more
12 than seventy-two (72) hours, pending review by a justice of the court, for failure to appear in
13 response to a summons or for refusal to answer questions or produce evidence or for behavior
14 disrupting a proceeding;

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

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

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

28 (e) Final orders of the superior court entered in a proceeding to review an order of the
29 administrator/magistrate may be appealed to the supreme court.

30 (f) The administrator/magistrate shall be:

31 (1) Governed by the commission on judicial tenure and discipline, chapter 16, of this
32 title, in the same manner as justices and judges;

33 (2) Subject to all provisions of the canons of judicial ethics;

34 (3) Subject to all criminal laws relative to judges by virtue of sections 11-7-1 and 11-7-2.

1 **8-2-39. General magistrate -- Appointment, duties and powers.** -- (a) There is hereby
2 created within the superior court the position of general magistrate who shall be appointed by the
3 presiding justice of the superior court, with the advice and consent of the ~~senate~~ [house of](#)
4 [representatives](#), for a term of ten (10) years and until a successor is appointed and qualified.
5 Nothing herein shall be construed to prohibit the assignment of the general magistrate to more
6 than one such term, subject to the advice and consent of the ~~senate~~ [house of representatives](#). The
7 person appointed to serve as general magistrate shall be a member of the bar of Rhode Island. The
8 powers and duties of the general magistrate shall be prescribed in the order appointing him or her.

9 (b) (1) The general magistrate shall assist the court in:

10 (i) The determination of, monitoring, collection, and payment of restitution and court
11 ordered fines, fees, and costs or the ordering of community service in lieu of or in addition to the
12 payment of restitution, fines, fees, and costs, consistent with other provisions of the general laws;

13 (ii) The determination and payment of claims under the violent crimes indemnity fund
14 for the Criminal Injuries Compensation Act of 1972, chapter 25 of title 12;

15 (iii) The determination and payment of claims from the Criminal Royalties Distribution
16 Act of 1983, chapter 25.1 of title 12; and

17 (iv) Such other matters as the presiding justice of the superior court determines are
18 necessary.

19 (2) The chief justice of the supreme court, with the consent of the presiding justice and,
20 if applicable, the chief judge of a particular court, may assign the general magistrate to serve as a
21 magistrate in any court of the unified system. When the general magistrate is so assigned he or
22 she shall be vested, authorized, and empowered with all the powers belonging to the magistrate
23 position to which he or she is specially assigned.

24 (c) The general magistrate will be empowered to hear all motions, pretrial conferences,
25 arraignments, probable cause hearings, bail hearings, bail and probation revocation hearings, and
26 to review all such matters including, but not limited to the above, and to modify the terms and
27 conditions of probation and other court-ordered monetary payments including, but not limited to,
28 the extension of time for probation and court-ordered monetary payments as provided by law.
29 The general magistrate shall have the power to take testimony in connection with all matters set
30 forth herein.

31 (d) The general magistrate may be authorized:

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

33 (2) To do all acts and take all measures necessary or proper for the efficient performance
34 of his or her duties;

1 (3) To require the production before him or her of books, papers, vouchers, documents,
2 and writings;

3 (4) To rule upon the admissibility of evidence;

4 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
5 examine them, and to call parties to the proceeding and examine them upon oath;

6 (6) To adjudicate a person in contempt and to order him or her imprisoned for not more
7 than seventy-two (72) hours, pending review by a justice of the relevant court, for failure to
8 appear in response to a summons or for refusal to answer questions or produce evidence or for
9 behavior disrupting a proceeding;

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

13 (8) To issue a copies and/or body attachment upon the failure of a party or witness to
14 appear after having been properly served and, should the court not be in session, the person
15 apprehended may be detained at the adult correctional institutions, if an adult, or at the Rhode
16 Island training school for youth, if a child, until the next session of the court.

17 (e) A party aggrieved by an order entered by the general magistrate shall be entitled to a
18 review of the order by a justice of the relevant court. Unless otherwise provided in the rules of
19 procedure of the court, such review shall be on the record and appellate in nature. The court shall,
20 by rules of procedure, establish procedures for review of orders entered by a general magistrate,
21 and for enforcement of contempt adjudications of a general magistrate.

22 (f) Final orders of the superior or family court entered in a proceeding to review an order
23 of a general magistrate may be appealed to the supreme court. Final orders of the district court
24 entered in a proceeding to review an order of the general magistrate may be appealed to the
25 superior court.

26 (g) The general magistrate shall:

27 (1) Receive all credits and retirement allowances as afforded justices under chapter 3 of
28 this title and any other applicable law, including without limitation, section 8-3-16;

29 (2) Receive a salary equivalent to that of a district court judge;

30 (3) (Repealed);

31 (4) Be governed by the commission on judicial tenure and discipline, chapter 16, of this
32 title, in the same manner as justices and judges;

33 (5) Be subject to all provisions of the canons of judicial ethics or code of judicial
34 conduct;

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

3 (h) The provisions of this section shall be afforded liberal construction.

4 (I) The presiding justice of the superior court shall initially appoint such support staff as
5 may be necessary, relating to preparation, investigation, and implementation of the general
6 magistrate's functions. Effective November 15, 1993, the support staff shall be placed under the
7 supervision and management of the superior court, and new appointments or personnel changes in
8 the support staff shall be subject to the directions and approval of the superior court, consistent
9 with any applicable collective bargaining agreements. The general magistrate shall have the
10 power and authority to issue subpoenas and to compel the attendance of witnesses at any place
11 within the state, to administer oaths and to require testimony under oath. The general magistrate,
12 or his or her designee, may serve his or her process or notices in a manner provided for the
13 service of process and notice in civil or criminal actions in accordance with the rules of court.

14 **8-2-39.1. Special magistrate.** -- There is hereby created within the superior court the
15 position of special magistrate, who shall be appointed by the presiding justice of the superior
16 court, with the advice and consent of the ~~senate~~ [house of representatives](#), for a period of ten (10)
17 years, and until a successor is appointed and qualified. Nothing contained herein shall be
18 construed to prohibit the reappointment of a special magistrate for one or more additional ten (10)
19 year terms, subject to the advice and consent of the ~~senate~~ [house of representatives](#). The person
20 appointed to serve as special magistrate shall be a member of the bar of the state of Rhode Island.
21 The special magistrate shall have the duties, responsibilities, powers and benefits as authorized in
22 section 8-2-39.

23 **8-2-39.2. Drug court magistrate -- Appointment, duties and powers.** -- (a) There is
24 hereby created within the superior court the position of Drug Court Magistrate who shall be
25 appointed by the presiding justice of the superior court with the advice and consent of the ~~senate~~
26 [house of representatives](#). The persons appointed to serve as Drug Court Magistrates shall be
27 members of the bar of Rhode Island. The powers and duties of the Drug Court Magistrate shall be
28 prescribed in the order appointing him or her in addition to those described herein.

29 The Drug Court Magistrate's term shall be ten (10) years and until a successor is
30 appointed and qualified. Nothing in this article shall prohibit a Drug Court Magistrate from being
31 reappointed for additional ten (10) year terms by the presiding justice of the superior court with
32 the advice and consent of the ~~senate~~ [house of representatives](#). He or she shall receive a salary
33 equivalent to that received by the special magistrate assigned to the superior court.

34 (b) The Drug Court Magistrate shall be empowered to hear and decide as a superior court

1 justice all matters relating to those adult offenders who come before the jurisdiction of the
2 superior court on any offense relating to the offender's participation in the Adult Drug Court. In
3 addition, the Drug Court Magistrate shall have the power to impose a period of incarceration
4 upon a plea of guilty or novo contender, and also have the power to confine any person who has
5 been found to be in violation of any conditions previously imposed by the superior court.

6 (c) The Drug Court Magistrate shall be empowered to hear and decide as a superior court
7 justice all matters that may come before the superior court pursuant to chapter 37.1 of title 11
8 "Sexual Offender Registration and Community Notification."

9 (d) The Drug Court Magistrate and/or the presiding justice of the superior court may fix
10 the venue of any person who is before the superior court as a participant in the Adult Drug Court
11 or who is alleged to be a sexual predator, and who has filed an objection to community
12 notification.

13 (e) The Drug Court Magistrate shall be governed by the commission on judicial tenure
14 and discipline, chapter 16 of title 8 in the same manner as justices and judges; shall be subject to
15 all provisions of the canons of judicial ethics or code of judicial conduct; and shall be subject to
16 all criminal laws relative to judges by virtue of sections 11-7-1 and 11-7-2.

17 (f) A party aggrieved by an order entered by the Drug Court Magistrate shall be entitled
18 to a review of the order by a justice of the Superior Court. Unless otherwise provided in the rules
19 of procedure of the court, such review shall be on the record and appellate in nature. The Superior
20 Court shall, by rules of procedure, establish procedures for reviews of orders entered by a Drug
21 Court Magistrate, and for enforcement of contempt adjudications of a Drug Court Magistrate.

22 SECTION 2. Sections 8-8-8.1 and 8-8-16.2 of the General Laws in Chapter 8-8 entitled
23 "District Court" are hereby amended to read as follows:

24 **8-8-8.1. Administrator/clerk -- Magistrate.** -- (a) Administrator/clerk. - There shall be a
25 district court administrator/clerk who shall be appointed by the chief judge in his or her capacity
26 as administrative head of the court, and who shall hold office at the pleasure of the administrative
27 judge. The administrator/clerk shall perform such duties and attend to such matters as may be
28 assigned to the administrator/clerk by the administrative judge, other than those duties assigned to
29 the chief clerk in section 8-8-19. Said duties may be assigned by the chief judge.

30 (b) Magistrate. - Any person holding the position of district court administrator/clerk
31 who is a member of the bar of Rhode Island may be appointed district court magistrate by the
32 chief judge in his or her capacity as administrative head of the court, subject to the advice and
33 consent of the ~~senate~~ [house of representatives](#). The district court magistrate shall hold said office
34 for a term of ten (10) years and until a successor is appointed and qualified; and the magistrate

1 shall retain whatever right he or she may have to the position of district court administrator/clerk
2 pursuant to this section. Nothing herein shall be construed to prohibit the appointment of the
3 magistrate for more than one term, subject to the advice and consent of the ~~senate~~ [house of](#)
4 [representatives](#). Any person holding office of district court magistrate on July 1, 1999 may
5 continue in full authority in said position until such time as an appointment is made and the
6 nominee qualified pursuant to this subsection.

7 (c) The district court magistrate shall have the power to hear and determine such matters
8 as may be assigned to the district court magistrate by the chief judge all to the same effect as if
9 done by a judge of the district court, including but not limited to:

10 (1) Matters relating to the determination of, monitoring, collection, and payment of
11 restitution and court ordered fines, fees, and costs or the ordering of community service in lieu of
12 or in addition to the payment of restitution, fines, fees, and costs, consistent with other provisions
13 of the general laws;

14 (2) Arraignments and pretrial motions in misdemeanor, petty misdemeanor, violation,
15 and ordinance cases and initial appearances and probable cause hearings in felony cases;

16 (3) Bail hearings pursuant to R.I. Const., Art. I, Sec. IX and all other bail matters
17 pursuant to chapter 13 of title 12 and the rules of criminal procedure, including but not limited to
18 motions to modify bail, bail revocation hearings, bail forfeiture hearings, and bail source
19 hearings;

20 (4) All matters relating to fugitives from justice pursuant to chapter 9 of title 12;

21 (5) Probation revocation hearings;

22 (6) All matters relating to small claims and consumer claims pursuant to chapter 16 of
23 title 10, including any pretrial motions including motions relating to the special service of
24 process, the entry of defaults and default judgments, the trial of such cases and the entry of
25 judgment after such trials, and all matters relating to the enforcement of such judgments,
26 including but not limited to the ordering of installment payments and trustee process; and

27 (7) Complaints for judicial review of the decision of an administrative agency pursuant
28 to chapter 35 of title 42 by making proposed findings of fact and recommendations for the
29 disposition of the complaints to a judge of the court. Any party may object to any portion of the
30 magistrate's proposed findings and recommendations within ten (10) days after receipt of a copy
31 thereof. That party shall file with the clerk of the sixth division of the district court and serve on
32 all parties written objections which shall specifically identify the portions of the proposed
33 findings and recommendations to which objection is made and the basis for the objection. A
34 judge shall make a de novo determination of those portions to which objection is made and may

1 accept, reject, or modify, in whole or in part, the findings or recommendations made by the
2 magistrate. Absent a timely objection filed in accordance with this subdivision, the proposed
3 prevailing party shall, upon expiration of the ten (10) days following the service of the
4 magistrate's proposed findings and recommendations, submit a proposed order for signature of
5 the judge to whom the case has been assigned.

6 (8) [Deleted by P.L. 2008, ch. 1, section 3].

7 (d) The magistrate may be authorized:

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

9 (2) To do all acts necessary or proper for the efficient performance of his or her duties;

10 (3) To require the production before him or her of books, papers, vouchers, documents,
11 and writings;

12 (4) To rule upon the admissibility of evidence;

13 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
14 examine them, and to call parties to the proceeding and examine them upon oath;

15 (6) To adjudicate a person in contempt and to order him or her fined or to order him or
16 her imprisoned for not more than seventy-two (72) hours, pending review by a judge of the court,
17 for failure to appear in response to a summons or for refusal to answer questions or produce
18 evidence or for behavior disrupting a proceeding or other contempt of his or her authority;

19 (7) To adjudicate a person in contempt and to order him or her fined or to order him or
20 her imprisoned for not more than seventy-two (72) hours, pending review by a judge of the court,
21 for failure to comply with a pending order to provide payment or to perform any other act;

22 (8) To issue a *capias* and/or body attachment for the failure of a party or witness to
23 appear after having been properly served or given notice by the court and, should the court not be
24 in session, the person apprehended may be detained at the adult correctional institution, if an
25 adult, or at the Rhode Island training school for youth, if a child, until the next session of the
26 court;

27 (9) To issue writs of habeas corpus to bring before him or her or a judge of the court any
28 person in jail or in prison to be examined as a witness in a suit or proceeding, civil or criminal,
29 pending before the court, or whose presence is necessary as a party or otherwise necessary so that
30 the ends of justice may be attained, and for no other purpose; and

31 (10) To issue warrants of arrest and search warrants to the same extent as an associate
32 judge of the court.

33 (e) Except as otherwise indicated, a party aggrieved by an order entered by the district
34 court magistrate shall be entitled to a review of the order, whether by appeal or otherwise, by a

1 judge of the court. The court shall, by rules of procedure, establish procedures for review of
2 contempt and adjudications of the magistrate.

3 (f) The magistrate shall be:

4 (1) Governed by the commission on judicial tenure and discipline, chapter 16 of this
5 title, in the same manner as justices and judges;

6 (2) Subject to all provisions of the canons of judicial ethics;

7 (3) Subject to all criminal laws relative to judges by virtue of sections 11-7-1 and 11-7-2.

8 (g) The provisions of this section shall be afforded liberal construction.

9 **8-8-16.2. District court clerk/magistrate.** -- (a) Any person who is a member of the bar
10 of Rhode Island may be appointed district court clerk/magistrate by the chief judge in his or her
11 capacity as administrative head of the court, subject to the advice and consent of the ~~senate~~ [house](#)
12 [of representatives](#). The district court clerk/magistrate shall hold that office for a term of ten (10)
13 years and until a successor is appointed and qualified. Nothing herein shall be construed to
14 prohibit the assignment of the district court clerk/magistrate to more than one such term, subject
15 to the advice and consent of the ~~senate~~ [house of representatives](#). The district court
16 clerk/magistrate shall have the power to hear and determine any matters that may be assigned to
17 the district court clerk/magistrate by the chief judge all to the same effect as if done by a judge of
18 the district court, including, but not limited to, matters relating to the determination of,
19 monitoring, collection and payment of restitution and court ordered fines, fees and costs or the
20 ordering of community service in lieu of or in addition to the payment of restitution, fines, fees
21 and costs, consistent with other provisions of the general laws.

22 (b) The clerk/magistrate may be authorized:

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

24 (2) To do all acts necessary or proper for the efficient performance of his or her duties;

25 (3) To require the production before him or her of books, papers, vouchers, documents
26 and writings;

27 (4) To rule upon the admissibility of evidence;

28 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
29 examine them and to call parties to the proceeding and examine them upon oath;

30 (6) To adjudicate a person in contempt and to order him or her fined or to order him or
31 her imprisoned for not more than seventy-two (72) hours, for failure to appear in response to a
32 summons or for refusal to answer questions or produce evidence or for behavior disrupting a
33 proceeding or other contempt of his or her authority; provided; however, that no such
34 imprisonment shall occur prior to review by a judge of the court.

1 (7) To adjudicate a person in contempt and to order him or her fined or to order him or
2 her imprisoned for not more than seventy-two (72) hours, for failure to comply with a pending
3 order to provide payment or to perform any other act; provided, however, that no such
4 imprisonment shall occur prior to review by a judge of the court.

5 (8) To issue a writ of habeas corpus and/or body attachment for the failure of a party or witness to
6 appear after having been properly served or given notice by the court and, should the court not be
7 in session, the person apprehended may be detained at the adult correctional institutions, if an
8 adult, or at the Rhode Island training school for youth, if a child, until the next session of the
9 court;

10 (9) To issue writs of habeas corpus to bring before him or her or a judge of the court any
11 person in jail or in prison to be examined as a witness in a suit or proceeding, civil or criminal,
12 pending before the court, or whose presence is necessary as a party or otherwise necessary so that
13 the ends of justice may be attained, and for no other purpose; and

14 (10) To issue warrants of arrest and search warrants to the same extent as an associate
15 judge of the court.

16 (c) Except as otherwise indicated, a party aggrieved by an order entered by the district
17 court clerk/magistrate shall be entitled to a review of the order, whether by appeal or otherwise,
18 by a judge of the court. The court shall, by rules of procedure, establish procedures for review of
19 contempt and adjudications of the clerk/magistrate.

20 (d) The district court clerk/magistrate shall:

21 (1) Be governed by the commission on judicial tenure and discipline, pursuant to chapter
22 16 of this title, in the same manner as justices and judges;

23 (2) Be subject to all provisions of the canons of judicial ethics;

24 (3) Be subject to all criminal laws relative to judges by virtue of sections 11-7-1 and 11-
25 7-2.

26 (4) Receive any salary that may be established by the state court administrator pursuant
27 to section 8-15-4. The provisions of this section shall be afforded liberal construction.

28 SECTION 3. Section 88.2-1 of the General Laws in Chapter 88.2 entitled "Traffic
29 tribunal" is hereby amended to read as follows:

30 **8-8.2-1. Establishment -- Rule-making authority -- Adjudication of violations.** -- (a)

31 There is hereby established a traffic tribunal which shall be charged with the administration and
32 adjudication of traffic violations within its jurisdiction. The traffic tribunal shall be under the
33 supervision of the chief magistrate of the traffic tribunal, who shall be the administrative head of
34 the traffic tribunal and shall have the power to make rules for regulating practice, procedure and

1 business within the traffic tribunal. Pursuant to section 8-6-2, said rules shall be subject to the
2 approval of the supreme court. Such rules, when effective, shall supersede any statutory
3 regulation in conflict therewith. Any person who has been a member of the bar of Rhode Island
4 may be appointed chief magistrate of the traffic tribunal. The chief magistrate of the traffic
5 tribunal shall be appointed by the chief justice of the supreme court, with the advice and consent
6 of the ~~senate~~ [house of representatives](#), for a period of ten (10) years and until a successor is
7 appointed and qualified. Nothing contained herein shall be construed to prohibit the
8 reappointment of the chief magistrate for one or more ten (10) year terms subject to the advice
9 and consent of the ~~senate~~ [house of representatives](#). Compensation for the chief magistrate shall be
10 equal to that of an associate judge of the district court.

11 (b) The judges and magistrates of the traffic tribunal shall hear and determine cases as
12 provided by law. No district court judge appointed pursuant to chapter 8 of this title shall be
13 assigned to perform duties of a judge or magistrate of the traffic tribunal under this chapter. The
14 chief magistrate of the traffic tribunal may assign a judge or magistrate who is authorized to hear
15 and decide cases in the traffic tribunal to serve as administrative judge or magistrate of the traffic
16 tribunal and the administrative judge or magistrate shall perform such administrative duties as
17 may be delegated to him or her by the chief magistrate. Once assigned to the position, the
18 administrative judge or magistrate shall hold said administrative position for the remainder of his
19 or her respective term as a judge or magistrate of the traffic tribunal.

20 (c) (i) Those judges of the administrative adjudication court in active service on July 1,
21 1999 shall serve within the traffic tribunal. Whenever the total number of judges and magistrates
22 in the traffic tribunal exclusive of the chief magistrate shall be less than seven (7), the chief
23 justice of the supreme court, with the advice and consent of the ~~senate~~ [house of representatives](#),
24 may, as needed, assign a duly qualified member of the bar of this state to act as a magistrate to fill
25 such vacancy and shall submit his or her name to the ~~senate~~ [house of representatives](#) for
26 confirmation. In the event of a vacancy in the position of chief magistrate, the chief justice of the
27 supreme court shall appoint a successor in accordance with subsection 8-8.2-1(a). Any magistrate
28 assigned under this section shall serve a term of ten (10) years and until a successor is appointed
29 and qualified, and shall be in the unclassified service of the state. Nothing herein shall be
30 construed to prohibit the assignment of a magistrate to more than one such term, subject to the
31 advice and consent of the ~~senate~~ [house of representatives](#). Compensation for any such magistrate
32 shall be determined by the chief magistrate of the traffic tribunal subject to appropriation by the
33 general assembly but in no event shall the compensation be equal to or more than that of an
34 associate judge of the district court. Magistrates of the traffic tribunal shall participate in the state

1 retirement system in the same manner as all members of the unclassified service.

2 (ii) If any judge of the traffic tribunal shall retire, or a vacancy becomes available
3 through death, disability or any other reason, the position shall be filled by a magistrate consistent
4 with the provisions of this section.

5 (d) Each judge and magistrate of the traffic tribunal shall devote full time to his or her
6 judicial duties, except as may be otherwise provided by law. He or she shall not practice law
7 while holding office, nor shall he or she be a partner or associate of any person in the practice of
8 law.

9 (e) Judges and magistrates of the traffic tribunal shall be subject to the provisions of R.I.
10 Const. Art. XI; to the code of judicial conduct or successor code promulgated by the supreme
11 court of this state, to the jurisdiction of the Commission on Judicial Tenure and Discipline in
12 accordance with chapter 16 of this title; and to the administrative authority and control of the
13 chief justice of the supreme court in accordance with chapter 15 of this title, except that sections
14 8-15-3 and 8-15-3.1 shall not apply to judges and/or magistrates of the traffic tribunal.

15 (f) The traffic tribunal shall be a tribunal of record and shall have a seal with such words
16 and devices as it shall adopt.

17 (g) Judges and magistrates of the traffic tribunal shall have the power to administer oaths
18 and affirmations.

19 (h) Administrative/supervisory officials. - (1) There shall be an assistant to the
20 administrative magistrate of the traffic tribunal who shall be appointed by and serve at the
21 pleasure of the chief magistrate and who shall perform such clerical and administrative duties as
22 may be assigned to him or her by the chief magistrate of the traffic tribunal and the administrative
23 judge or magistrate of the traffic tribunal. The assistant to the administrative judge or magistrate
24 shall have the power to administer oaths and affirmations within the state.

25 (2) There shall be a clerk of the traffic tribunal who shall be appointed by and serve at
26 the pleasure of the chief magistrate of the traffic tribunal; provided, however, that, effective July
27 1, 1999, the first clerk of the traffic tribunal shall be that person holding the position of
28 administrator/clerk of the administrative adjudication court as of May 1, 1998, and that person
29 shall hold office for the balance of a term of twelve (12) years which began on September 1,
30 1992, without the necessity of appointment by the governor or advice and consent of the ~~senate~~
31 [house of representatives](#). The clerk of the traffic tribunal shall exercise his or her functions under
32 the direction and control of the chief magistrate of the traffic tribunal and the administrative judge
33 or magistrate of the traffic tribunal. The clerk of the traffic tribunal shall have the power to
34 administer oaths and affirmations within the state.

1 (i) Clerical Personnel/Court Recorders. - (1) The chief magistrate of the traffic tribunal
2 shall appoint deputy clerks and assistance clerks for the traffic tribunal to serve at his or her
3 pleasure. All such clerks may administer oaths and affirmations within the state.

4 (2) The chief magistrate of the traffic tribunal shall appoint sufficient court recorders to
5 enable all proceedings to be recorded by electronic means and who shall assist in such other
6 clerical duties as may be prescribed from time to time by the chief magistrate of the traffic
7 tribunal.

8 (3) The chief magistrate of the traffic tribunal shall employ such clerical assistants in
9 addition to deputy clerks as may be required in the traffic tribunal to perform clerical duties.

10 SECTION 4. Sections 8-10-3.1 and 8-10-3.2 of the General Laws in Chapter 8-10
11 entitled "Family Court" are hereby amended to read as follows:

12 **8-10-3.1. Magistrates -- Appointment, duties, and powers.** -- (a) The chief judge of the
13 family court may appoint magistrates, with the advice and consent of the ~~senate~~ [house of](#)
14 [representatives](#), to assist the court in the conduct of its business. A person appointed to serve as a
15 magistrate shall be a member of the bar of Rhode Island. The powers and duties of magistrates
16 shall be prescribed in the order appointing them.

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

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

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

22 Magistrates shall be empowered to hear and determine all motions, pretrial conferences,
23 arraignments of juvenile offenders, probable cause hearings, and review of all such matters,
24 including but not limited to, the temporary placement, custody, disposition and adoption of
25 children, orders of support, final divorce decrees, and the taking of testimony in conducting all
26 hearings relative thereto subject to the review provided for in subsection (d).

27 (c) The magistrates shall serve a term of ten (10) years and until a successor is appointed
28 and qualified and his or her powers and duties shall be prescribed in the order appointing him or
29 her or in the rules of procedure of the family court. Any magistrate in service as of January 1,
30 2008 who serves at the pleasure of the chief judge of the family court may be appointed for a
31 term of ten (10) years with the advice and consent of the ~~senate~~ [house of representatives](#) and until
32 a successor is appointed and qualified. Nothing herein shall be construed to prohibit the
33 assignment of a magistrate to more than one such term, subject to the advice and consent of the
34 ~~senate~~ [house of representatives](#). The magistrates may be authorized:

- 1 (1) To regulate all proceedings before him or her;
- 2 (2) To do all acts and take all measures necessary or proper for the efficient performance
3 of his or her duties;
- 4 (3) To require the production before him or her of books, papers, vouchers, documents,
5 and writings;
- 6 (4) To rule upon the admissibility of evidence;
- 7 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to
8 examine them, and to call parties to the proceeding and examine them upon oath;
- 9 (6) To adjudicate a person in contempt and to order him or her imprisoned for not more
10 than seventy-two (72) hours, pending review by a justice of the court, for failure to appear in
11 response to a summons or for refusal to answer questions or produce evidence or for behavior
12 disrupting a proceeding;
- 13 (7) To adjudicate a party in contempt and to order him or her imprisoned for not more
14 than seventy-two (72) hours, pending review by a justice of the court, for failure to comply with a
15 pending order to provide support or to perform any other act; and
- 16 (8) To issue a *capias* and/or body attachment upon the failure of a party or witness to
17 appear after having been properly served and, should the family court not be in session, the
18 person apprehended may be detained at the adult correctional institution, if an adult, or at the
19 Rhode Island training school for youth, if a child, until the next session of the family court.
- 20 (d) A party aggrieved by an order entered by a magistrate shall be entitled to a review of
21 the order by a justice of the family court. Unless otherwise provided in the rules of procedure of
22 the family court, such review shall be on the record and appellate in nature. The family court shall
23 by rules of procedure establish procedures for review of orders entered by a magistrate, and for
24 enforcement of contempt adjudications of a magistrate.
- 25 (e) Final orders of the family court entered in a proceeding to review an order of a
26 magistrate may be appealed to the supreme court.
- 27 (f) The magistrates shall be empowered to hear *de novo* all applications for income
28 withholding pursuant to chapter 16 of title 15 and appeals of administrative agency orders of the
29 department of human services to withhold income under chapter 16 of title 15.
- 30 (g) The magistrates shall be empowered to hear all matters relating to the revocation or
31 nonrenewal of a license of an obligor due to non-compliance with a court order of support, in
32 accordance with chapter 11.1 of title 15.
- 33 (h) The magistrates may be authorized by the chief judge to hear those matters on the
34 domestic abuse prevention calendar and the nominal calendar.

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

2 **8-10-3.2. General magistrate of the family court.** -- (a) There is hereby created within
3 the family court the position of general magistrate of the family court who shall be appointed by
4 the chief judge of the family court with the advice and consent of the ~~senate~~ [house of](#)
5 [representatives](#) for a term of ten (10) years and until a successor is appointed and qualified.
6 Nothing herein shall be construed to prohibit the assignment of the general magistrate to more
7 than one such term, subject to the advice and consent of the ~~senate~~ [house of representatives](#).

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

10 (c) The primary function of the general magistrate shall be the enforcement of child
11 support decrees, orders, and law relative to child support. The general magistrate shall have all
12 the authority and powers vested in magistrates by virtue of sections 8-10-3, 8-10-3.1, 9-15-19, 9-
13 15-21, 9-14-26, 9-18-8, 9-18-9, and 36-2-3, and any other authority conferred upon magistrates
14 by any general or public law or by any rule of procedure or practice of any court within the state.

15 (d) The chief justice of the supreme court with the agreement of the chief judge of the
16 family court may specially assign the general magistrate to any court of the unified judicial
17 system; provided, however, that the general magistrate may be assigned to the superior court
18 subject to the prior approval of the presiding justice of the superior court. When the general
19 magistrate is so assigned he or she shall be vested, authorized, and empowered with all the
20 powers belonging to the magistrates of the court to which he or she is specially assigned.

21 (e) The general magistrate shall:

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

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

26 (3) Be entitled to a special license plate under section 31-3-47;

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

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

29 (6) Be subject to all criminal laws relative to judges by virtue of sections 11-7-1 and 11-
30 7-2.

31 (f) The provisions of this section shall be afforded liberal construction.

32 SECTION 5. This act shall take effect upon passage.

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LC01429
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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 transfer from the Senate to the House of Representatives the requirement
2 for advice and consent for magistrates of the superior, district and family courts as well as the
3 traffic tribunal.

4 This act would take effect upon passage.

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LC01429
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