

2020 -- S 2585

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--PROCEDURE GENERALLY --
CAUSES OF ACTION

Introduced By: Senators Metts, and Quezada

Date Introduced: February 25, 2020

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 9-1-35 of the General Laws in Chapter 9-1 entitled "Causes of
2 Action" is hereby amended to read as follows:

3 **9-1-35. Civil action for ethnic or religious intimidation and/or vandalism.**

4 (a) ~~Any~~ Whenever a person, ~~who~~ is maliciously subjected to an act or acts which would
5 reasonably be construed as intended to harass or intimidate the person because of ~~his or her~~ the
6 person's actual or perceived race, religion, ~~or~~ national origin, ancestry, color, sexual orientation,
7 gender, gender identity or expression, or disability, the person may bring an action in the superior
8 court against the perpetrator of the act or acts for compensatory damages including damages for
9 emotional distress. The court, in its discretion, may also restrain and enjoin such future acts by the
10 defendant.

11 (b) If any provision or part of this section or the application thereof to any person or
12 circumstance is held invalid, the invalidity shall not affect other provisions or applications of the
13 section which can be given effect without the invalid provision or application, and to this end the
14 provisions or parts of this section are severable.

15 SECTION 2. Section 42-9.3-2 of the General Laws in Chapter 42-9.3 entitled "Office of
16 Civil Rights Advocate" is hereby amended to read as follows:

17 **42-9.3-2. Action by attorney general.**

18 (a) Whenever any person, whether or not acting under color of law, intentionally interferes

1 or threatens to intentionally interfere, by physical force or violence against a person, by damage or
2 destruction of property or by trespass on property, or by any act or acts which would reasonably be
3 construed as intended to harass or threaten any person:

4 (1) With ~~with~~ the exercise or enjoyment by any other person of rights secured by the United
5 States Constitution or the laws of the United States or of rights secured by the Constitution of Rhode
6 Island or laws of the state; or

7 (2) Because of a person's actual or perceived race, religion, ancestry, national origin, color,
8 sexual orientation, gender, gender identity or expression, or disability, the attorney general may
9 bring a civil action for injunctive or other appropriate equitable relief in order to protect the
10 peaceable exercise or enjoyment of the rights secured.

11 (b) Whenever any person shall engage in repeated illegal acts that violate the civil rights
12 law of the United States or the state of Rhode Island, or the United States Constitution or Rhode
13 Island Constitution, the attorney general may apply to the superior court for the county where any
14 of the alleged violation(s) occurred or are threatened, on notice of five (5) days, for an order
15 enjoining the continuance of such activity, and directing restitution and damages, or any other relief
16 the court may deem proper.

17 ~~(b)(c)~~ (c) A civil action under this chapter shall be brought in the name of the state for or on
18 behalf of any person so aggrieved and shall be instituted in the superior court for the county where
19 the ~~alleged victim resides or has a principal place of business or where the~~ alleged violation
20 occurred or is threatened.

21 SECTION 3. Chapter 42-9.3 of the General Laws entitled "Office of Civil Rights
22 Advocate" is hereby amended by adding thereto the following section:

23 **42-9.3-5. Civil investigative demand.**

24 (a) Whenever it appears to the attorney general that a person has engaged in, is engaging
25 in, or is about to engage in, any act or practice declared to be unlawful by this chapter, or when the
26 attorney general believes it to be in the public interest that an investigation should be made to
27 ascertain whether a person in fact has engaged in, is engaging in, or is about to engage in, any act
28 or practice declared to be unlawful by this chapter, he or she may execute, in writing, and cause to
29 be served upon any person who is believed to have information, documentary material, or physical
30 evidence relevant to the alleged or suspected violation, an investigative demand stating the general
31 subject matter of the investigation and require the person to furnish, under oath or otherwise, a
32 report in writing stating the relevant facts and circumstances of which the person has knowledge,
33 or to appear and testify or to produce relevant, documentary material or physical evidence for
34 examination, at any reasonable time and place that may be stated in the investigative demand. All

1 civil investigative demands may, at the discretion of the attorney general, be filed in the superior
2 court of the county in which the person served with the demand shall dwell or have his or her
3 principal place of business.

4 (b) At any time before the return date specified in an investigative demand, or within twenty
5 (20) days after the demand has been served, whichever period is shorter, a petition to extend the
6 return date or to modify or set aside the demand, stating good cause, may be filed in the superior
7 court in which the person served with the demand shall dwell or have his or her principal place of
8 business, or in the superior court of Providence County.

9 (c) To accomplish the objectives and to carry out the duties prescribed by this chapter, the
10 attorney general, in addition to other powers conferred upon him or her by this section, may issue
11 subpoenas to any person; administer an oath or affirmation to any person; conduct hearings in aid
12 of any investigation or inquiry; and prescribe any forms and promulgate any rules and regulations
13 that may be necessary, which rules and regulations shall have the force of law; provided that none
14 of the powers conferred by this section shall be used for the purpose of compelling any natural
15 person to furnish testimony or evidence that might tend to incriminate the person or subject him or
16 her to a penalty or forfeiture.

17 (d) Service of any notice, demand, or subpoena under this section shall be made personally
18 within this state, but if personal service cannot be obtained, substituted service may be made in the
19 following manner:

20 (1) Personal service without this state;

21 (2) The mailing of any notice, demand, or subpoena under this section by registered or
22 certified mail to the last known place of business, residence, or abode within or without this state
23 of the person for whom the service is intended;

24 (3) As to any person other than a natural person, in the manner provided in the rules of civil
25 procedure as if a complaint or other pleading that institutes a civil proceeding had been filed; or

26 (4) Service that the superior court may direct in lieu of personal service within this state.

27 (e) A person upon whom a demand is served pursuant to the provisions of this section shall
28 comply with the terms of the demand unless otherwise provided by order of court. Subject to the
29 protections provided for in subsection (c) of this section relating to self-incrimination, any person
30 who, with intent to avoid, evade, or prevent compliance, in whole or in part, with any civil
31 investigative demand under this section, removes from any place, conceals, withholds, or destroys,
32 mutilates, alters, or by any other means falsifies any documentary material in the possession,
33 custody, or control of any person who is the subject of any demand, or knowingly conceals any
34 relevant information, shall be fined not more than ten thousand dollars (\$10,000).

1 (f) If any person fails or refuses to file any statement or report, or obey any subpoena or
2 investigative demand issued by the attorney general, the attorney general may file in the superior
3 court of the county in which the person shall dwell or be found; or has his or her principal place of
4 business; or in Providence County, if the superior court at the previously mentioned county shall
5 not be in session, or if the person is a nonresident or has no principal place of business in this state;
6 or of the other county as may be agreed upon by the parties to the petition; and serve upon the
7 person a petition for an order of the court for the enforcement of this section, and the petition may
8 request, and the court shall have jurisdiction to grant, after notice and a hearing, an order granting
9 any relief that may be required, until the person files the statement or report, or obeys the subpoena
10 or investigative demand.

11 (g) Any final order so entered shall be subject to appeal to the state supreme court. Any
12 disobedience of any final order entered under this section by any court shall be punished as a
13 contempt of court.

14 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO COURTS AND CIVIL PROCEDURE--PROCEDURE GENERALLY --
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1 This act would authorize the office of the attorney general-office of civil rights advocate
2 to issue a civil investigative demand in instances of perceived violations of a Rhode Islander's civil
3 rights. The act would also clarify the scope of jurisdiction of the office of the attorney general office
4 of civil rights advocate; and would modify the scope of the civil action for ethnic/religious
5 intimidation and/or vandalism, and would codify the attorney general's authority to bring an action
6 when there is a pattern or practice of civil rights violations.

7 This act would take effect upon passage.

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