

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL OFFENSES - CRIMES AGAINST THE PUBLIC TRUST

Introduced By: Senators Lombardi, McCaffrey, Archambault, Jabour, and Conley

Date Introduced: March 15, 2017

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 11 of the General Laws entitled "CRIMINAL OFFENSES" is hereby
2 amended by adding thereto the following chapter:

3 CHAPTER 70

4 CRIMES AGAINST THE PUBLIC TRUST

5 **11-70-1. Definitions.**

6 (a) As used in this chapter:

7 (1) "Administrative proceeding" means any proceeding, other than a judicial proceeding,
8 the outcome of which is required to be based on a record or documentation prescribed by law, or
9 in which law or regulation is particularized in applications to individuals.

10 (2) "Approval" includes, but is not limited to, recommendation, failure to disapprove, or
11 another manifestation of favor or acquiescence.

12 (3) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or
13 advantage, including benefit to any other person or entity in whose welfare they are interested,
14 but not an advantage promised generally to a group or class of voters as a consequence of public
15 measures which a candidate engages to support or oppose.

16 (4) "Disapproval" means and includes, but is not limited to, failure to approve, or any
17 other manifestation of disfavor or nonacquiescence.

18 (5) "Government" means and includes any branch, subdivision or agency of the state of
19 Rhode Island or any locality within.

1 (6) “Harm” means loss, disadvantage or injury, or anything so regarded by the person
2 affected, including loss, disadvantage or injury to any other person or entity in whose welfare
3 they are interested.

4 (7) “Official proceeding” means a proceeding heard or which may be heard before any
5 legislative, judicial, administrative or other governmental agency or official authorized to take
6 evidence under oath, including any referee, hearing officer, commissioner, notary or other person
7 taking testimony or deposition in connection with any such proceeding;

8 (8) “Party official” means a person who holds an elective or appointive post in a political
9 party in the United States by virtue of which they direct or conduct, or participate in directing or
10 conducting party affairs at any level of responsibility.

11 (9) “Pecuniary benefit” means a benefit in the form of money, property, commercial
12 interests or anything else the primary significance of which is economic gain.

13 (10) “Public servant” means:

14 (i) Any full-time or part-time employee in the classified, nonclassified or unclassified
15 service of the state or any city or town employee within the state, any individual serving in any
16 appointed state or municipal position, any employee of any public or quasi-public state or
17 municipal board, commission or corporation, and any contractual employee of the state or any
18 city or town within the state;

19 (ii) Any officer or member of a state or municipal agency as defined in §36-14-2(8) who
20 is appointed for a term of office specified by the constitution or a statute of this state or a charter
21 or ordinance of any city or town or who is appointed by or through the governing body or highest
22 official of state or municipal government; or

23 (iii) Any person holding any elective public office pursuant to a general or special
24 election.

25 (11) “Services” means labor, professional service, transportation, telephone or other
26 public service, accommodation in hotels, restaurants or elsewhere, admission to exhibition, use of
27 vehicles or other movable property.

28 (12) “Special influence” means power to influence through kinship, friendship or other
29 relationship, apart from merits of the transaction.

30 **11-70-2. Bribery in official and political matters.**

31 (a) It shall be unlawful for a public servant to offer, confer, agree to confer upon another,
32 solicit, accept or agree to accept from another:

33 (1) Any pecuniary benefit as consideration for the recipient’s decision, opinion,
34 recommendation, vote or other exercise of discretion as a public servant or party official;

1 (2) Any benefit as consideration for the recipient's decision, vote, recommendation or
2 other exercise of official discretion in administrative or official proceeding; or

3 (3) Any benefit as consideration for a violation of a known legal duty as a public servant
4 or party official.

5 (b) Any person convicted of a violation of this section shall be guilty of a felony and
6 subject to imprisonment of up to ten (10) years, a fine of not more than ten thousand dollars
7 (\$10,000), or both.

8 (c) It is no defense to prosecution under this section that a person whom the actor sought
9 to influence was not qualified to act in the desired way whether because they had not yet assumed
10 the office, lacked jurisdiction, or for any other reason.

11 **11-70-3. Selling political endorsements – Special influence.**

12 (a) It shall be unlawful for a public servant to:

13 (1) Solicit, receive, agree to receive, or agree that any political party or other person shall
14 receive, any pecuniary benefit as consideration for approval or disapproval of an appointment or
15 advancement in public service, or for approval or disapproval of any person or transaction for any
16 benefit conferred by a public servant or agency of government;

17 (2) Solicit, receive or agree to receive any pecuniary benefit as consideration for exerting
18 special influence upon a public servant or procuring another to do so; or

19 (3) Offer, confer or agree to confer any pecuniary benefit, receipt of which is in violation
20 of this section.

21 (b) Any person convicted of a violation of this section shall be guilty of a felony and
22 subject to imprisonment of up to ten (10) years, a fine of not more than ten thousand dollars
23 (\$10,000), or both.

24 **11-70-4. Acquiring pecuniary interest in, or speculating or wagering on official**
25 **action or information.**

26 (a) It is unlawful for a public servant, in contemplation of official action by themselves or
27 by a governmental unit with which they are associated, or in reliance on information to which
28 they have access in their official capacity and which has not been made public:

29 (1) To acquire a pecuniary interest in any property, transaction or enterprise which may
30 be affected by such information of official action;

31 (2) To speculate or wager on the basis of such information or official action; or

32 (3) To aid another to do any of the foregoing.

33 (b) Any person convicted of a violation of this section shall be guilty of a felony and
34 subject to imprisonment of up to ten (10) years, a fine of not more than ten thousand dollars

1 (\$10,000), or both.

2 **11-70-5. Theft of honest services.**

3 (a) A public servant commits theft of honest services if, having control over the
4 disposition of services of others, to which they are not entitled, they knowingly divert such
5 services to their own benefit or to the benefit of another not entitled thereto.

6 (b) Any person convicted of a violation of this section shall be guilty of a felony and
7 subject to imprisonment of up to ten (10) years, a fine of not more than one hundred fifty
8 thousand dollars (\$150,000), or both.

9 **11-70-6. Civil damages for restitution for value received from engaging in illegal**
10 **acts.**

11 In addition to any criminal penalties, a public servant convicted of a misdemeanor or
12 felony or attempted felony or misdemeanor under the laws of the United States, the state of
13 Rhode Island or any other jurisdiction knowingly committed in their official capacity shall be
14 liable for the restitution of anything of value received by them in the course of such violation.
15 Action for recovery of amounts under this section shall be brought in the superior court of any
16 county in which any element of the crime occurred. The actions shall be brought in the name of
17 the state by the attorney general for the benefit and use of the state.

18 SECTION 2. Section 12-12-17 of the General Laws in Chapter 12-12 entitled
19 "Indictments, Informations and Complaints" is hereby amended to read as follows:

20 **12-12-17. Statute of limitations.**

21 (a) There shall be no statute of limitations for the following offenses: treason against the
22 state, any homicide, arson, first-degree arson, second-degree arson, third-degree arson, burglary,
23 counterfeiting, forgery, robbery, rape, first-degree sexual assault, first-degree child molestation
24 sexual assault, second-degree child molestation sexual assault, bigamy, manufacturing, selling,
25 distribution, or possession with intent to manufacture, sell, or distribute, a controlled substance
26 under the Uniform Controlled Substance Act, chapter 28 of title 21, or any other offense for
27 which the maximum penalty provided is life imprisonment.

28 (b) The statute of limitations for the following offenses shall be ten (10) years: larceny
29 under § 11-41-2 (receiving stolen goods), § 11-41-3 (embezzlement and fraudulent conversion), §
30 11-41-4 (obtaining property by false pretenses or personation), § 11-41-11 (embezzlement by
31 bank officer or employee), § 11-41-12 (fraudulent conversion by agent or factor), and § 11-41-13
32 (obtaining signature by false pretenses), or any larceny that is punishable as a felony; any
33 violation of chapter 7 of title 11 (bribery); any violation of § 11-18-1 (giving false document to
34 agent, employee, or public official); perjury; any violation of chapter 42 of title 11 (threats and

1 extortion); any violation of chapter 15 of title 7 (racketeer influenced and corrupt organizations);
2 any violation of chapter 57 of title 11 (racketeer violence); any violation of chapter 36 of title 6
3 (antitrust law); or any violation of § 11-68-2 (exploitation of an elder); [any violation of § 11-41-27](#)
4 [\(wrongful conversion by officer or state or municipal employee\)](#).

5 (c) The statute of limitations for any other criminal offense shall be three (3) years unless
6 a longer statute of limitations is otherwise provided for in the general laws.

7 (d) Any person who participates in any offense, either as a principal accessory or
8 conspirator, shall be subject to the same statute of limitations as if the person had committed the
9 substantive offense.

10 (e) The statute of limitations for any violation of chapter 18.9 of title 23 (refuse disposal),
11 chapter 19 of title 23 (solid waste management corporation), chapter 19.1 of title 23 (hazardous
12 waste management), chapter 12 of title 46 (water pollution), and chapter 13 of title 46 (public
13 drinking water supply) shall be seven (7) years from the time that the facts constituting the
14 offense or violation shall have become known to law enforcement authorities, unless a longer
15 statute of limitations is otherwise provided for in the general laws.

16 SECTION 3. Section 36-10.1-2 of the General Laws in Chapter 36-10.1 entitled "Rhode
17 Island Public Employee Pension Revocation and Reduction Act" is hereby amended to read as
18 follows:

19 **36-10.1-2. Definitions.**

20 (a) "Crime related to public office or public employment" shall mean any of the
21 following criminal offenses:

22 (1) The committing, aiding, or abetting of an embezzlement of public funds;

23 (2) The committing, aiding, or abetting of any felonious theft by a public officer or
24 employee from his or her employer;

25 (3) Bribery in connection with employment of a public officer or employee; and

26 (4) The committing of any felony by a public officer or employee ~~who, willfully and with~~
27 ~~the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain, or~~
28 ~~advantage for himself or herself or for some other person~~ through the use or attempted use of the
29 power, rights, privileges, duties, or position of his or her public office or employment position.

30 (b) "Public official" or "public employee" shall mean any current or former state or
31 municipal elected official as defined in § 36-14-2(10), state or municipal appointed official as
32 defined in § 36-14-2(4), and any employee of state or local government, of boards, commissions
33 or agencies as defined in § 36-14-2(8)(i), (ii), who is otherwise entitled to receive or who is
34 receiving retirement benefits under this title, under title 16, under title 45, under title 8, under

1 chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42, whether that
2 person is acting on a permanent or temporary basis and whether or not compensated on a full-
3 time or part-time basis. For the purposes of this chapter, all these persons are deemed to be
4 engaged in public employment.

5 (c) As used in this chapter, the phrase "pleads guilty or nolo contendere" shall not include
6 any plea of nolo contendere which does not constitute a conviction by virtue of § 12-10-12 or 12-
7 18-3.

8 (d) For purposes of this chapter, "domestic partner" shall be defined as a person who,
9 prior to the decedent's death, was in an exclusive, intimate and committed relationship with the
10 decedent, and who certifies by affidavit that their relationship met the following qualifications:

11 (1) Both partners were at least eighteen (18) years of age and were mentally competent to
12 contract;

13 (2) Neither partner was married to anyone else;

14 (3) Partners were not related by blood to a degree which would prohibit marriage in the
15 state of Rhode Island;

16 (4) Partners resided together and had resided together for at least one year at the time of
17 death; and

18 (5) Partners were financially interdependent as evidenced by at least two (2) of the
19 following:

20 (i) Domestic partnership agreement or relationship contract;

21 (ii) Joint mortgage or joint ownership of primary residence;

22 (iii) Two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C)
23 joint credit account; (D) joint lease; and/or

24 (iv) The domestic partner had been designated as a beneficiary for the decedent's will,
25 retirement contract or life insurance.

26 SECTION 4. 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 OFFENSES - CRIMES AGAINST THE PUBLIC TRUST

1 This act would create the "crimes against the public trust" act which provides for criminal
2 offenses for certain actions performed by public servants and would further provide for restitution
3 to the state or municipality for performing such criminal actions. Furthermore, the act would
4 extend the statute of limitations for wrongful conversion by a state or municipal officer and
5 provides for potential pension revocation for felonies related to a public officer.

6 This act would take effect upon passage.

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