

2012 -- S 2941

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS

Introduced By: Senator Michael J. McCaffrey

Date Introduced: May 03, 2012

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-10-3.2 of the General Laws in Chapter 8-10 entitled "Family
2 Court" is hereby amended to read as follows:

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

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

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

16 (d) The chief justice of the supreme court with the agreement of the chief judge of the
17 family court may specially assign the general magistrate to any court of the unified judicial
18 system; provided, however, that the general magistrate may be assigned to the superior court
19 subject to the prior approval of the presiding justice of the superior court. When the general

1 magistrate is so assigned he or she shall be vested, authorized, and empowered with all the
2 powers belonging to the magistrates of the court to which he or she is specially assigned.

3 (e) The general magistrate shall:

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

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

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

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

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

11 (6) Be subject to all criminal laws relative to judges by virtue of sections 11-7-1 and 11-
12 7-2.

13 (f) The general magistrate of the family court who shall at the time of passage of this
14 section hold the position of general magistrate, shall upon retirement, at his or her own request
15 and at the direction of the chief justice of the supreme court, subject to the retiree's physical and
16 mental competence, be assigned to perform such services as general magistrate of the family
17 court, as the chief judge of the family court shall prescribe. When so assigned and performing
18 such service, the general magistrate shall have all the powers and authority of general magistrate
19 of the family court, but otherwise shall have no powers nor be authorized to perform any judicial
20 duties. For any such service or assignments performed after retirement, the general magistrate
21 shall receive no compensation whatsoever, either monetary or in kind. Such a retired general
22 magistrate shall not be counted in the number of judicial officers provided by law for the family
23 court.

24 ~~(f)~~ (g) The provisions of this section shall be afforded liberal construction.

25 SECTION 2. Section 36-10-36 of the General Laws in Chapter 36-10 entitled
26 "Retirement System-Contributions and Benefits" is hereby amended to read as follows:

27 **36-10-36. Post retirement employment.** -- (a) On and after July 7, 1994, no member
28 who has retired under the provisions of titles 16, 36, or 45 may be employed or reemployed by
29 any state agency or department unless any and all retirement benefits to which he or she may be
30 entitled by virtue of the provisions of titles 16, 36 or 45 are suspended for the duration of any
31 employment or reemployment. No additional service credits shall be granted for any post-
32 retirement employment or reemployment and no deductions shall be taken from an individual's
33 salary for retirement contribution. Notice of any such post-retirement employment or
34 reemployment shall be sent monthly to the retirement board by the employing agency or

1 department and by the retired member.

2 (b) Any member who has retired under the provisions of titles 16, 36, or 45 may be
3 employed or reemployed by any municipality within the state, which municipality has accepted
4 the provisions of chapter 21 of title 45 and which participates in the municipal employees'
5 retirement system for a period of not more than seventy-five (75) working days or one hundred
6 fifty (150) half days with half day pay in any one calendar year without any forfeiture of or
7 reduction of any retirement benefits and allowances the member is receiving or may receive as a
8 retired member. Pension payments shall be suspended whenever this period is exceeded. No
9 additional contributions shall be taken and no additional service credits shall be granted for this
10 service. Notice of this employment or re-employment shall be sent monthly to the retirement
11 board by the employer and by the retired member.

12 (c) Any member who has retired under the provisions of title 16, 36, or 45 may be
13 employed or re-employed by any municipality within the state which has not accepted the
14 provisions of chapter 21 of title 45 and which does not participate in the municipal employees'
15 retirement system.

16 (d) Notwithstanding the provisions of this section:

17 (1) Any retired member of the system shall be permitted to serve as an elected mayor,
18 the town administrator, the city administrator, the town manager, the city manager, the chief
19 administrative officer or the chief executive officer of any city or town, city or town council
20 member, school committee member, or unpaid member of any part-time state board or
21 commission or member of any part-time municipal board or commission, and shall continue to be
22 eligible for and receive the retirement allowance for service other than that as a mayor,
23 administrator, council member, school committee member, or member of any state board or
24 commission or member of any part-time municipal board or commission; provided, however, that
25 no additional service credits shall be granted for any service under this subsection;

26 (2) Any retired member who retired from service at any state college, university, state
27 school, or who retired from service as a teacher under the provisions of title 16, or who retired
28 from service under title 36 or title 45, may be employed or reemployed, on a part-time basis, by
29 any state college, university or state school for the purpose of providing classroom instruction,
30 academic advising of students and/or coaching. Compensation shall be provided at a level not to
31 exceed the salary provided to other faculty members employed under a collective bargaining
32 agreement at the institution. In no event shall "part-time" mean gross pay of more than fifteen
33 thousand dollars (\$15,000) in any one calendar year. Any retired member who provides such
34 instruction or service shall do so without forfeiture or reduction of any retirement benefit or

1 allowance; and provided, however, that no additional service credits shall be granted for any
2 service under this subsection;

3 (3) Any retired member who retired from service as a teacher under the provisions of
4 title 16, or as a state employee who while an active state employee was certified to teach driver
5 education by the department of elementary and secondary education or by the board of governors
6 for higher education, may be employed or reemployed, on a part-time basis, by the department of
7 elementary and secondary education or by the board of governors for higher education for the
8 purpose of providing classroom instruction in driver education courses in accordance with section
9 31-10-19 and/or motorcycle driver education courses in accordance with section 31-10.1-1.1. In
10 no event shall "part-time" mean gross pay of more than fifteen thousand dollars (\$15,000) in any
11 one calendar year. Any retired teacher who provides that instruction shall do so without forfeiture
12 or reduction of any retirement benefit or allowance the retired teacher is receiving as a retired
13 teacher; provided, however, that no additional service credits shall be granted for any service
14 under this subsection; and

15 (4) Any retired member who retired from service as a registered nurse may be employed
16 or reemployed, on a per diem basis, for the purpose of providing professional nursing care and/or
17 services at a state operated facility in Rhode Island. In no event shall "part-time" mean gross pay
18 of more than twelve thousand dollars (\$12,000) in any one calendar year. Any retired nurse who
19 provides such care and/or services shall do so without forfeiture or reduction of any retirement
20 benefit or allowance the retired nurse is receiving as a retired nurse; provided, however, that no
21 additional service credits shall be granted for any service under this subsection.

22 (5) Any retired member who at the time of passage of this section serves as a general
23 magistrate within the family court and thereafter retires from judicial service, may be employed
24 or reemployed by the family court to perform such services as a general magistrate of the family
25 court as the chief judge of the family court shall prescribe, without any forfeiture of or reduction
26 of any retirement benefits and allowances that he or she is receiving or may receive. For any such
27 services or assignments performed after retirement, the general magistrate shall receive no
28 compensation whatsoever, either monetary or in kind. No additional contributions shall be taken
29 and no additional service credits shall be granted for this service.

30 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE - COURTS

1 This act would allow the general magistrate of the family court, upon retirement and at
2 the direction of the chief justice of the supreme court, to perform services as general magistrate as
3 the chief justice prescribes without any reduction of retirement benefits, and for any such services
4 performed after retirement, the general magistrate shall receive no compensation, either monetary
5 or in kind, and no additional retirement contributions or credits shall be granted for such services.

6 This act would take effect upon passage.

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