

2021 -- S 0678

LC001922

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - DISTRICT COURT

Introduced By: Senators McCaffrey, Lombardi, Archambault, and Burke

Date Introduced: March 18, 2021

Referred To: Senate Judiciary

(Judiciary)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 8-8 of the General Laws entitled "District Court" is hereby amended
2 by adding thereto the following section:

3 **8-8-1.2. Mental health treatment calendar.**

4 (a) Findings and declarations. The general assembly finds and declares as follows:

5 (1) Mental illness is a prevalent and persistent issue in Rhode Island, within the criminal
6 population in general and the incarcerated population in particular. Approximately one-fifth (1/5)
7 of all inmates at the adult correctional institutions have/possess a diagnosed mental illness, while
8 nearly eighty percent (80%) have a history of substance abuse. Many suffer from both maladies.

9 (2) Mental illness can often go unrecognized and untreated, leaving some individuals to
10 suffer and spiral downward until they are caught in the criminal justice system. These individuals
11 often become trapped in a cycle of repeated prosecution and incarceration.

12 (3) Individuals with mental illness who are charged with crimes can benefit from
13 alternatives to incarceration when feasible, and are permitted to obtain proper treatment for
14 persistent mental health and substance abuse disorders through a jail diversion treatment program
15 that recognizes their special set of circumstances while at the same time providing accountability
16 for their wrong-doing and providing for the safety of the public.

17 (b) It is hereby declared to be the policy of the state of Rhode Island to successfully identify
18 and stabilize individuals suffering from severe and persistent mental illness who are charged with
19 misdemeanor offenses in the district court through treatment, by providing the tools and skills

1 necessary to address their unique challenges and by helping them develop the insight needed to
2 reintegrate successfully into society and maintain a productive and law-abiding lifestyle within the
3 community.

4 (c) There shall be established a mental health alternative sentencing and treatment calendar
5 within the jurisdiction of the district court for hearing, addressing and disposition of certain
6 misdemeanor offenses in an effort to direct eligible defendants who have been recognized as
7 suffering from severe and persistent mental illness into a court program that integrates support and
8 treatment plans with the judicial process, potentially resulting in alternatives to traditional
9 prosecution, sentencing, and incarceration; reduction of the risk of recidivism; cost savings to the
10 state; and an increase in public safety.

11 (1) The mental health alternative sentencing and treatment calendar shall be overseen by a
12 district court clerk/magistrate to be appointed pursuant to § 8-8-16.2, subject to an appropriation
13 made by the general assembly.

14 (d) The chief judge of the district court shall create a mental health alternative sentencing
15 and treatment calendar in the district court and shall assign a district court clerk/magistrate, and
16 associated personnel to the extent necessary to hear and decide all criminal actions involving
17 offenses committed by defendants accepted into the program. The calendar shall be referred to as
18 the "Mental Health Treatment Calendar."

19 (e) An eligible defendant is any person who stands charged in a district court complaint
20 with one or more misdemeanors, and:

21 (1) Has not been previously convicted of or a plead nolo contendere to a disqualifying
22 offense, as defined in subsection (f) of this section;

23 (2) Suffers from severe and persistent mental illness; and

24 (3) Is determined by the court to be appropriate for participation in the mental health
25 treatment calendar based on the defendant's clinical assessment, criminal history and criminal risk
26 assessment level.

27 (f) Definitions for the purposes of this section:

28 (1) "Disqualifying offense" means and includes a prior conviction of:

29 (i) A capital offense;

30 (ii) Felony sale of a controlled substance;

31 (iii) Sexual assault;

32 (iv) Any sex crime involving a minor, including, but not limited to, child abuse as defined
33 in § 11-9-5.3 and any violation of § 11-9-1.3;

34 (v) Any offense listed in chapter 67.1 of title 11 (human trafficking);

1 (vi) Any offense requiring sex offender registration pursuant to chapter 37.1 of title 11; and

2 (vii) All firearms offenses, as defined in chapter 47 of title 11, with the exception of:

3 (A) Section 11-47-6, mental incompetents and drug addicts prohibited from possession of
4 firearms; and

5 (B) Section 11-47-52, carrying of a weapon while under the influence of liquor or drugs.

6 Disqualifying offense shall also include any attempt or conspiracy to commit any of the offenses
7 included in this subsection.

8 (2) "Severe and persistent mental illness" means a mental, behavioral or emotional disorder
9 resulting in serious functional impairment, which substantially interferes with or limits one or more
10 major life activities. An individual's history of substance and alcohol abuse may also be considered
11 to the extent necessary to make a proper diagnosis of a co-occurring disorder.

12 (g) Under no circumstances shall the defendant(s) be permitted to use this section as a basis
13 for a dismissal of an action, as this section is enacted for the benefit and convenience of the district
14 court.

15 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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1 This act would create within the district court a dedicated calendar offering treatment and
2 sentencing alternatives to eligible defendants deemed to suffer from serious and persistent mental
3 illness to be known as the "Mental Health Treatment Calendar".

4 This act would take effect upon passage.

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