

LC02811

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

A N A C T

RELATING TO CRIMINAL OFFENSES

Introduced By: Representatives Anguilla, Fox, Crowley, Ajello, and Dennigan

Date Introduced: March 17, 2004

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-11-6 of the General Laws in Chapter 11-11 entitled "Disorderly
2 Conduct" is hereby repealed.

3 ~~11-11-6. Blasphemy. -- Every person who shall commit blasphemy shall be imprisoned~~
4 ~~not exceeding two (2) months or be fined not exceeding two hundred dollars (\$200).~~

5 SECTION 2. Section 11-14-3 of the General Laws in Chapter 11-14 entitled "False
6 Personation" is hereby repealed.

7 ~~11-14-3. Unauthorized military uniforms. -- It shall be unlawful for any person, not~~
8 ~~being in the military or naval service of the United States or of this state, to appear in public~~
9 ~~wearing the distinctive uniform, or any distinctive part of a uniform, of any branch of service~~
10 ~~except as provided in this section. Every person who shall violate the provisions of this section~~
11 ~~shall be fined not less than twenty five dollars (\$25.00) nor more than one hundred dollars~~
12 ~~(\$100); provided, that this prohibition and penalty shall not apply to any person, in the service of~~
13 ~~the United States or of this state, wearing a required uniform or permitted by or in pursuance of~~
14 ~~law, similar in design to that of any of the bodies previously enumerated in this section; or to any~~
15 ~~person discharged from service, for any cause other than his or her own unworthiness, wearing~~
16 ~~his or her uniform in order to take part in any military or naval parade or on any similar occasion;~~
17 ~~or to any enlisted person in the military or naval service of the United States, discharged for any~~
18 ~~cause other than his or her own unworthiness, wearing the uniform of his or her last rating, until~~
19 ~~four (4) months after the date of discharge; and provided, further, that this section shall not be~~

1 ~~construed to impair or affect the rights of regularly chartered military companies, or other~~
2 ~~organizations, which already have the right to parade with arms or with sidearms by the laws of~~
3 ~~this state, to wear any uniforms that they are now required by their regulations to wear; and~~
4 ~~provided, further, that the secretary of state may, in his or her discretion, grant a written~~
5 ~~permission to the proprietor of any reputable place of public amusement or entertainment,~~
6 ~~allowing the members performing in that place to wear uniforms for stated periods and under any~~
7 ~~restrictions that the secretary of state may from time to time prescribe, which permission may be~~
8 ~~withdrawn at any time if the secretary of state shall deem that action expedient.~~

9 SECTION 3. Sections 11-15-2, 11-15-3 and 11-15-6 of the General Laws in Chapter 11-
10 15 entitled "Flags and Emblems" are hereby repealed.

11 ~~**11-15-2. Disfigurement, use in labels, mutilation, or contempt of American flag.**~~
12 ~~Any person who in any manner, for exhibition or display, shall place or cause to be placed any~~
13 ~~word, figure, mark, picture, design, drawing, or advertisement of any nature upon any flag,~~
14 ~~standard, color, or ensign of the United States of America, or shall expose or cause to be exposed~~
15 ~~to public view any such flag, standard, color, or ensign upon which shall be printed, painted or~~
16 ~~otherwise placed, or to which shall be attached, appended, affixed, or annexed, any word, figure,~~
17 ~~mark, picture, design, or drawing, or any advertisement of any nature, or who shall expose to~~
18 ~~public view, manufacture, sell, expose for sale, give away, or have in possession for sale or to~~
19 ~~give away, or for use for any purpose, any article or substance, being an article of merchandise, or~~
20 ~~a receptacle of merchandise, upon which shall have been printed, painted, attached or otherwise~~
21 ~~placed a representation of a flag, standard, color, or ensign of the United States, to advertise, call~~
22 ~~attention to, mark, or distinguish the article or substance on which so placed, or who shall~~
23 ~~publicly mutilate, deface, defile or defy, trample upon or cast contempt, either by words or act,~~
24 ~~upon any such flag, standard, color, or ensign of the United States, shall be deemed guilty of a~~
25 ~~misdemeanor, and shall be punished by a fine not exceeding one hundred dollars (\$100), or by~~
26 ~~imprisonment for not more than thirty (30) days, or both, in the discretion of the court.~~

27 ~~**11-15-3. Acts permitted by federal law exempt --- Other uses of flag exempt.**~~ The
28 provisions of sections 11-15-1 and 11-15-2 shall not apply to any act permitted by the statutes of
29 the United States of America or by the United States army and navy regulations, nor shall it be
30 construed to apply to a newspaper, periodical, book, pamphlet, circular, certificate, diploma,
31 warrant, or commission of appointment to office, ornamental picture, articles of jewelry, or
32 stationery for use in correspondence, on any of which shall be printed, painted, or placed, the
33 flag, disconnected from any advertisement.

34 ~~**11-15-6. Flags to be accompanied by American flag --- Subversive flags prohibited.**~~

~~No flag shall be carried in any parade unless accompanied by the flag of the United States; and no flag, banner, ensign, or sign, being in itself, or having upon it any inscription, opposed to organized government, or which may be derogatory to morals, shall be carried in any parade or displayed in a public manner within this state. Whoever violates any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding one hundred dollars (\$100) or by imprisonment for not more than three (3) months.~~

SECTION 4. Sections 11-38-1, 11-38-2, 11-38-3 and 11-38-4 of the General Laws in Chapter 11-38 entitled "Riotous Assembly" are hereby repealed.

~~**11-38-1. Proclamation commanding dispersal.** -- (a) If any persons numbering twelve (12) or more, being armed with clubs or other weapons, or if any number of persons consisting of thirty (30) or more shall be unlawfully, routously, riotously, or tumultuously assembled, any justice of the supreme or superior court or of a district court, justice of the peace, sheriff, mayor, deputy sheriff, town sergeant, or constable shall, among the rioters or as near to them as he or she can safely come, command silence while proclamation he or she is making and shall openly make proclamation in substance as follows:~~

~~"By virtue of the laws of this state in relation to routs, riots, and tumultuous assemblies, I charge and command all persons here assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business, upon the penalties inflicted by law: God save the state."~~

~~-(b) Whenever in the opinion of the governor there is danger of persons unlawfully, routously, riotously, or tumultuously assembling within the state, he or she may issue the proclamation to the people of the state, setting forth the danger and charging and commanding all persons to desist and refrain from routs, riots, and tumultuous assemblies; and he or she may at the time in his or her discretion issue the proclamation, charging and commanding all persons unlawfully, routously, riotously, or tumultuously assembled, immediately to disperse and peaceably to depart to their habitations, upon the penalties inflicted by the laws of the state; which proclamations shall be by the secretary of state published in some newspaper in every town, city or county where the proclamation is intended to operate.~~

~~**11-38-2. Arrest of persons refusing to disperse.** -- If any persons shall assemble as stated in section 11-38-1 after publication of proclamation by the governor, or, being so assembled, shall refuse to obey the proclamation, or, after the making of proclamation by any of the officers enumerated in section 11-38-1, shall not immediately disperse themselves, every officer may command sufficient aid and seize, arrest, and secure in custody any or all those persons, so that they may be proceeded against according to law, and if any persons shall be~~

1 ~~killed or wounded by reason of their resisting the persons endeavoring to disperse or seize them,~~
2 ~~the justice, sheriff, mayor, deputy sheriff, town sergeant, constable, and their assistants shall be~~
3 ~~indemnified and held guiltless.~~

4 ~~**11-38-3. Refusal to assist in dispersal of assembly.** --- Every person who, being~~
5 ~~commanded by the justice, sheriff, deputy sheriff, mayor, city or town sergeant, or constable,~~
6 ~~shall refuse or neglect to afford the assistance required, shall be fined not less than seven dollars~~
7 ~~(\$7.00) nor more than thirty dollars (\$30.00).~~

8 ~~**11-38-4. Riots continuing after proclamation.** --- All persons who, after proclamation~~
9 ~~has been made, shall unlawfully, routously, riotously, and tumultuously continue together, or~~
10 ~~shall willfully obstruct or hinder any officer, who shall be known or shall openly declare himself~~
11 ~~or herself to be an officer, from making the proclamation, shall be fined not exceeding one~~
12 ~~thousand dollars (\$1,000) or shall be imprisoned not exceeding one year; and if any persons, so~~
13 ~~riotously assembled, shall demolish or pull down or begin to demolish or pull down any dwelling~~
14 ~~house or other building, ship or vessel, or destroy any other property or thing, they shall be fined~~
15 ~~or imprisoned as provided in this section.~~

16 SECTION 5. Sections 11-43-4, 11-43-5, 11-43-6, 11-43-11, 11-43-12, 11-43-13 and 11-
17 43-14 of the General Laws in Chapter 11-43 entitled "Treason and Related Offenses" are hereby
18 repealed.

19 ~~**11-43-4. Illegal town meetings.** --- All town meetings of the free persons, inhabitants, or~~
20 ~~residents of this state, or of any portion of the state, for the election of any town, city, ward,~~
21 ~~county, or state officers, called or held in any town or city in this state, except in the manner, for~~
22 ~~the purposes, at the times, and by the persons prescribed by law, are illegal and void, and every~~
23 ~~person who shall act as moderator, warden, or clerk in pretended meetings to be held, or in any~~
24 ~~manner receive, record, or certify votes for the election of any pretended town, city, ward, county,~~
25 ~~or state officers, shall be deemed guilty of a misdemeanor and shall be fined not exceeding one~~
26 ~~thousand dollars (\$1,000) nor less than five hundred dollars (\$500) and be imprisoned for a term~~
27 ~~of six (6) months; provided, that this section is not intended to apply to cases in which, by~~
28 ~~accident or mistake, some prescribed forms of calling town and ward meetings of the electors of~~
29 ~~the several towns and cities of this state shall be omitted or overlooked.~~

30 ~~**11-43-5. Dispersal of illegal assemblies purporting to exercise governmental powers.**~~
31 ~~--- Any meetings that are described in section 11-43-4 and also all meetings of persons other than~~
32 ~~those authorized by law, calling themselves when collected or claiming to be the general~~
33 ~~assembly of this state or either house, are declared to be riotous, tumultuous, and treasonable~~
34 ~~assemblies, and the commander in chief, the sheriff of any county or any deputy sheriff, any~~

1 justice of the supreme or superior court, or the mayors of the several cities or, in their absence,
2 the city councils of the cities, are authorized and required to command those assemblies or any of
3 them to disperse, and if they do not immediately obey the command, then, by the civil posse, or,
4 if they deem it necessary, by calling out and using for that purpose the whole or any portion of the
5 military force of this state within their respective jurisdictions that they or either of them may
6 deem sufficient for it, to disperse the assemblies or any of them within their jurisdictions, and all
7 officers, civil and military, and persons under their command, are directed to govern themselves
8 accordingly.

9 **11-43-6. Acceptance of office by virtue of pretended election.** -- Every person who
10 shall in any manner signify that he or she will accept any legislative, executive, judicial, or
11 ministerial office, by virtue of any pretended election in any pretended town, ward, or other
12 meetings, or shall knowingly suffer or permit his or her name to be used as a candidate, shall be
13 adjudged guilty of a high crime and misdemeanor and be fined not exceeding two thousand
14 dollars (\$2,000) and be imprisoned for the term of one year.

15 **11-43-11. Advocating forcible overthrow of government.** -- Any person who shall
16 willfully speak, utter, print, write, or publish any language intended to incite, provoke, or
17 encourage forceful resistance to the state of Rhode Island or to the United States of America, or a
18 defiance or disregard of the constitution or laws of Rhode Island or of the United States, or shall
19 advocate any change, alteration, or modification in the form of government of Rhode Island or of
20 the United States except in the manner provided by the constitution or the laws of the state of
21 Rhode Island or by the Constitution or the laws of the United States, or shall advocate any change
22 in the form of government of the state of Rhode Island or of the United States by means of
23 revolution or violence, or shall advocate the assassination of persons occupying public positions
24 or offices created by the constitution and laws of the state of Rhode Island or of the United States,
25 or shall advocate, incite, provoke, or encourage the destruction, burning, blowing up, or
26 damaging of any public or private property as a part or incident of a program of force, violence,
27 or revolution, having for its purpose the overthrow of the form of government of the state of
28 Rhode Island or of the United States, or shall willfully publicly display any flag or emblem,
29 except the flag of the United States, as symbolic or emblematic of the government of the United
30 States or of a form of government proposed by its adherents or supporters as superior or
31 preferable to the form of government of the United States as prescribed by the Constitution of the
32 United States, shall be guilty of a felony and, upon conviction, be punished by a fine of not more
33 than ten thousand dollars (\$10,000), or imprisonment not exceeding ten (10) years, or both.

34 **11-43-12. Advocating anarchy or unlawful destruction of property.** -- Any person

1 ~~who shall willfully teach or advocate anarchy or the overthrow by force or violence of the~~
2 ~~government of the state of Rhode Island or of the United States, or of all forms of law, or~~
3 ~~opposition to organized government, or any person who shall willfully become a member of or~~
4 ~~affiliated with any organization teaching and advocating disbelief in or opposition to organized~~
5 ~~government, or advocating or teaching the duty, necessity, or propriety of the unlawful assaulting~~
6 ~~or killing of any officer or officers, either of specific individuals or of officers generally of the~~
7 ~~government of the state of Rhode Island or of the United States, or of any organized government~~
8 ~~because of his, her, or their official character, or advocating or teaching the unlawful destruction~~
9 ~~of property, shall be guilty of a felony and, upon conviction, shall be punished by a fine of not~~
10 ~~more than ten thousand dollars (\$10,000), or imprisonment not exceeding ten (10) years, or both.~~

11 ~~**11-43-13. Conspiracy to advocate anarchy or overthrow of government.** -- If two (2)~~
12 ~~or more persons conspire to violate any of the provisions of sections 11-43-11 and 11-43-12 and~~
13 ~~one or more of those persons does any act to effect the object of the conspiracy, each of the~~
14 ~~parties to the conspiracy shall be guilty of a felony and, upon conviction, shall be punished by a~~
15 ~~fine of not more than ten thousand dollars (\$10,000), or imprisonment not exceeding ten (10)~~
16 ~~years, or both.~~

17 ~~**11-43-14. Meetings to discuss anarchy or overthrow of government.** -- Any meeting~~
18 ~~at which any of the things forbidden in sections 11-43-11 and 11-43-12 are advocated, taught or~~
19 ~~discussed, or any meeting called for the purpose of advocating, teaching, or discussing any of the~~
20 ~~things forbidden by sections 11-43-11 and 11-43-12, is declared to be an unlawful assembly, and~~
21 ~~may be dispersed in the manner provided for dispersing of riotous, tumultuous, and treasonable~~
22 ~~assemblies in section 11-43-5.~~

23 SECTION 6. This act shall take effect upon passage.

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LC02811
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES

- 1 This act would repeal various criminal offenses relating to free speech.
- 2 This act would take effect upon passage.

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