

2013 -- S 0702

=====
LC02029
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

—————
A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE -- COURTS--FAMILY COURT

Introduced By: Senators McCaffrey, Paiva Weed, Jabour, and Lynch

Date Introduced: March 07, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-10-3 of the General Laws in Chapter 8-10 entitled "Family Court"
2 is hereby amended to read as follows:
3 **8-10-3. Establishment of court -- Jurisdiction -- Seal -- Oaths.** -- (a) There is hereby
4 established a family court, consisting of a chief judge and ~~eleven (11)~~ twelve (12) associate
5 justices, to hear and determine all petitions for divorce from the bond of marriage and from bed
6 and board; all motions for allowance, alimony, support and custody of children, allowance of
7 counsel and witness fees, and other matters arising out of petitions and motions relative to real
8 and personal property in aid thereof, including, but not limited to, partitions, accountings,
9 receiverships, sequestration of assets, resulting and constructive trust, impressions of trust, and
10 such other equitable matters arising out of the family relationship, wherein jurisdiction is acquired
11 by the court by the filing of petitions for divorce, bed and board and separate maintenance; all
12 motions for allowance for support and educational costs of children attending high school at the
13 time of their eighteenth (18th) birthday and up to ninety (90) days after high school graduation,
14 but in no case beyond their nineteenth (19th) birthday; enforcement of any order or decree
15 granting alimony and/or child support, and/or custody and/or visitation of any court of competent
16 jurisdiction of another state; modification of any order or decree granting alimony and/or custody
17 and/or visitation of any court of competent jurisdiction of another state on the ground that there
18 has been a change of circumstances; modification of any order or decree granting child support of
19 any court of competent jurisdiction of another state provided: (1) the order has been registered in

1 Rhode Island for the purposes of modification pursuant to section 15-23.1-611, or (2) Rhode
2 Island issued the order and has continuing exclusive jurisdiction over the parties; antenuptial
3 agreements, property settlement agreements and all other contracts between persons, who at the
4 time of execution of the contracts, were husband and wife or planned to enter into that
5 relationship; complaints for support of parents and children; those matters relating to delinquent,
6 wayward, dependent, neglected, or children with disabilities who by reason of any disability
7 requires special education or treatment and other related services; to hear and determine all
8 petitions for guardianship of any child who has been placed in the care, custody, and control of
9 the department for children, youth, and families pursuant to the provisions of chapter 1 of title 14
10 and chapter 11 of title 40; adoption of children under eighteen (18) years of age; change of names
11 of children under the age of eighteen (18) years; paternity of children born out of wedlock and
12 provision for the support and disposition of such children or their mothers; child marriages; those
13 matters referred to the court in accordance with the provisions of section 14-1-28; those matters
14 relating to adults who shall be involved with paternity of children born out of wedlock;
15 responsibility for or contributing to the delinquency, waywardness, or neglect of children under
16 sixteen (16) years of age; desertion, abandonment, or failure to provide subsistence for any
17 children dependent upon such adults for support; neglect to send any child to school as required
18 by law; bastardy proceedings and custody to children in proceedings, whether or not supported by
19 petitions for divorce or separate maintenance or for relief without commencement of divorce
20 proceedings; and appeals of administrative decisions concerning setoff of income tax refunds for
21 past due child support in accordance with sections 44-30.1-5 and 40-6-21. The holding of real
22 estate as tenants by the entirety shall not in and of itself preclude the family court from
23 partitioning real estate so held for a period of six (6) months after the entry of final decree of
24 divorce.

25 (b) The family court shall be a court of record and shall have a seal which shall contain
26 such words and devices as the court shall adopt.

27 (c) The judges and clerk of the family court shall have power to administer oaths and
28 affirmations.

29 (d) The family court shall have exclusive initial jurisdiction of all appeals from any
30 administrative agency or board affecting or concerning children under the age of eighteen (18)
31 years and appeals of administrative decisions concerning setoff of income tax refunds, lottery set
32 offs, insurance intercept, and lien enforcement provisions for past due child support, in
33 accordance with sections 44-30.1-5 and 40-6-21, and appeals of administrative agency orders of
34 the department of human services to withhold income under chapter 16 of title 15.

1 (e) The family court shall have jurisdiction over those civil matters relating to the
2 enforcement of laws regulating child care providers and child placing agencies.

3 (f) The family court shall have exclusive jurisdiction of matters relating to the revocation
4 or nonrenewal of a license of an obligor due to noncompliance with a court order of support, in
5 accordance with chapter 11.1 of title 15.

6 [See section 12-1-15 of the General Laws.]

7 (g) Notwithstanding any general or public law to the contrary, the family court shall have
8 jurisdiction over all protective orders provided pursuant to the Rhode Island general laws, when
9 either party is a juvenile.

10 SECTION 2. Section 8-10-3.2 of the General Laws in Chapter 8-10 entitled "Family
11 Court" is hereby repealed.

12 ~~8-10-3.2. General magistrate of the family court. --- (a) There is hereby created within~~
13 ~~the family court the position of general magistrate of the family court who shall be appointed by~~
14 ~~the chief judge of the family court with the advice and consent of the senate for a term of ten (10)~~
15 ~~years and until a successor is appointed and qualified. Nothing herein shall be construed to~~
16 ~~prohibit the assignment of the general magistrate to more than one such term, subject to the~~
17 ~~advice and consent of the senate.~~

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

20 ~~(c) The primary function of the general magistrate shall be the enforcement of child~~
21 ~~support decrees, orders, and law relative to child support. The general magistrate shall have all~~
22 ~~the authority and powers vested in magistrates by virtue of sections 8-10-3, 8-10-3.1, 9-15-19, 9-~~
23 ~~15-21, 9-14-26, 9-18-8, 9-18-9, and 36-2-3, and any other authority conferred upon magistrates~~
24 ~~by any general or public law or by any rule of procedure or practice of any court within the state.~~

25 ~~(d) The chief justice of the supreme court with the agreement of the chief judge of the~~
26 ~~family court may specially assign the general magistrate to any court of the unified judicial~~
27 ~~system; provided, however, that the general magistrate may be assigned to the superior court~~
28 ~~subject to the prior approval of the presiding justice of the superior court. When the general~~
29 ~~magistrate is so assigned he or she shall be vested, authorized, and empowered with all the~~
30 ~~powers belonging to the magistrates of the court to which he or she is specially assigned.~~

31 ~~(e) The general magistrate shall:~~

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

34 ~~(2) Be governed by the commission on judicial tenure and discipline, chapter 16 of this~~

- 1 ~~title, in the same manner as justices and workers' compensation judges;~~
- 2 ~~(3) Be entitled to a special license plate under section 31-3-47;~~
- 3 ~~(4) Receive a salary equivalent to that of a district court judge;~~
- 4 ~~(5) Be subject to all the provisions of the canons of judicial ethics; and~~
- 5 ~~(6) Be subject to all criminal laws relative to judges by virtue of sections 11-7-1 and 11-~~
- 6 ~~7-2.~~
- 7 ~~(f) The general magistrate of the family court who shall at the time of passage of this~~
- 8 ~~section hold the position of general magistrate, shall upon retirement, at his or her own request~~
- 9 ~~and at the direction of the chief justice of the supreme court, subject to the retiree's physical and~~
- 10 ~~mental competence, be assigned to perform such services as general magistrate of the family~~
- 11 ~~court, as the chief judge of the family court shall prescribe. When so assigned and performing~~
- 12 ~~such service, the general magistrate shall have all the powers and authority of general magistrate~~
- 13 ~~of the family court, but otherwise shall have no powers nor be authorized to perform any judicial~~
- 14 ~~duties. For any such service or assignments performed after retirement, the general magistrate~~
- 15 ~~shall receive no compensation whatsoever, either monetary or in kind. Such a retired general~~
- 16 ~~magistrate shall not be counted in the number of judicial officers provided by law for the family~~
- 17 ~~court.~~
- 18 ~~(g) The provisions of this section shall be afforded liberal construction.~~

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

=====
LC02029
=====

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

- 1 This act would eliminate the position of general magistrate of the family court and would
- 2 increase the number of associate justices from eleven (11) to twelve (12).
- 3 This act would take effect upon passage.

=====
LC02029
=====