

2016 -- S 2546

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL PROCEDURE - PRELIMINARY PROCEEDINGS IN DISTRICT  
COURTS

Introduced By: Senators Conley, Lombardi, Lombardo, Archambault, and Lynch Prata

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

(Attorney General)

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 12-10-2 of the General Laws in Chapter 12-10 entitled "Preliminary  
2 Proceedings in District Courts" is hereby amended to read as follows:

3           **12-10-2. Powers of justices of the peace.** -- (a) (1) The chief judge of the district court  
4 shall from time to time appoint, with power to revoke the appointments, from those qualified  
5 justices of the peace who shall be members of the bar of the state of Rhode Island within the  
6 cities and towns and divisions of the district court, as many justices of the peace as he or she may  
7 deem necessary, who shall be authorized to set and take bail in all complaints bailable before a  
8 division of the district court except those offenses punishable by life imprisonment and, in default  
9 of bail, to commit to the adult correctional institutions all respondents arrested on those  
10 complaints. The chief judge shall authorize the justices of the peace, so appointed by him or her,  
11 to issue warrants and complaints returnable to the division of the district court for any offense for  
12 which by law a judge of the district court may issue a warrant and complaint, and all warrants so  
13 issued, and all warrants and complaints upon which bail is taken or commitments are made, shall  
14 be immediately returned to the divisions; provided, that the justices of the peace shall not in any  
15 case or for any purpose have the power to issue search warrants. The justices of the peace may  
16 also set and take bail, as provided in this section, commit and issue warrants (except search  
17 warrants) in any division where the defendant is being held by the state police, the metropolitan  
18 park police, conservation officers of the department of environmental management, a sheriff or

1 deputy sheriff, the capitol police, the campus security forces of the state colleges and universities,  
2 or city or town police forces.

3 (2) Whenever probable cause exists that a defendant is a violator of bail and/or probation  
4 in the district court or superior court, upon being presented with a violation report by ~~an~~ the  
5 attorney general for the state or the attorney general's transmission of a violation report to the  
6 arresting agency or place of presentment, and upon making a finding that the defendant is subject  
7 to violation of bail and/or probation and that probable cause exists on the new charge being  
8 brought, the justice of the peace shall issue his or her writ of mittimus confining the defendant  
9 without bail and issue a writ of habeas corpus returnable to the next sitting of the district court  
10 and make a finding of probable violation in writing. If the attorney general transmits the violation  
11 report to the arresting agency or place of presentment, the law enforcement agency shall ensure  
12 that the defendant is presented with the violation report and the justice of the peace shall ensure  
13 the violation report is attached to their writs and other documentation of a district court violation  
14 or a superior court violation. The justice of the peace shall proceed to arraign the defendant on the  
15 new charge pursuant to subdivision (1) of this subsection. The justice of the peace shall return his  
16 or her writs and other documentation of a district court violation to the clerk of the district court;  
17 regarding any superior court violation the attorney for the state shall notify the clerk of the  
18 superior court for the county where the case originated for which a finding of probable violation  
19 was made of the finding of probable violation and the attorney for the state shall, on the same  
20 date, request a judge or magistrate of the superior court to issue a writ of habeas corpus for the  
21 purpose of a violation presentation before the superior court returnable to the next sitting of the  
22 superior court in the county.

23 (b) In misdemeanor cases a justice of the peace may accept pleas of not guilty in which  
24 case the justice of the peace may schedule a pre-trial conference date before a judge of the district  
25 court.

26 (c) In non-capital felony cases the justices of the peace may also schedule felony  
27 screening dates.

28 (d) The fee for the justices of the peace shall be fifty dollars (\$50.00) paid by each  
29 individual who appears before him or her; provided, that when a special session is requested  
30 between the hours of 11:00 p.m. and 8:00 a.m., the fee shall be arranged between the defendant  
31 and the justice of the peace but shall not exceed two hundred dollars (\$200). Justices of the peace  
32 shall have immunity for any actions taken pursuant to the provisions of this section.

1 SECTION 2. This act shall take effect on September 1, 2016.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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1           This act would empower a justice of the peace or bail commissioner (JP) to receive from  
2 an arresting agency, notice of violation of probation or bail that has been received by the arresting  
3 agency from the attorney general or transmitted by the attorney general to said agency, and  
4 present the notice to the arrestee. The JP would also ensure that said notice of violations be  
5 attached to any writs presented to the court.

6           This act would take effect on September 1, 2016.

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