

2018 -- S 2712

LC004876

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - DISTRICT COURT

Introduced By: Senator Erin Lynch Prata

Date Introduced: March 20, 2018

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-8-16.2 of the General Laws in Chapter 8-8 entitled "District  
2 Court" is hereby amended to read as follows:

3 **8-8-16.2. District court clerk/magistrate.**

4 (a) Any person who is a member of the bar of Rhode Island may be appointed as a district  
5 court clerk/magistrate by the chief judge in his or her capacity as administrative head of the court,  
6 subject to the advice and consent of the senate. The district court clerk/~~magistrate~~ magistrates  
7 shall hold that office for a term of ten (10) years and until a successor is appointed and qualified  
8 for their position. Nothing herein shall be construed to prohibit the assignment of ~~the~~ a district  
9 court clerk/magistrate to more than one such term, subject to the advice and consent of the senate.  
10 ~~The~~ A district court clerk/magistrate shall have the power to hear and determine any matters that  
11 may be assigned ~~to the district court clerk/magistrate~~ by the chief judge all to the same effect as if  
12 done by a judge of the district court, including, but not limited to, matters relating to the  
13 determination of, monitoring, collection and payment of restitution and court ordered fines, fees  
14 and costs or the ordering of community service in lieu of or in addition to the payment of  
15 restitution, fines, fees and costs, consistent with other provisions of the general laws.

16 (b) ~~The~~ A clerk/magistrate may be authorized:

- 17 (1) To regulate all proceedings before him or her;
- 18 (2) To do all acts necessary or proper for the efficient performance of his or her duties;
- 19 (3) To require the production before him or her of books, papers, vouchers, documents

1 and writings;

2 (4) To rule upon the admissibility of evidence;

3 (5) To issue subpoenas for the appearance of witnesses, to put witnesses on oath, to  
4 examine them and to call parties to the proceeding and examine them upon oath;

5 (6) To adjudicate a person in contempt and to order him or her fined or to order him or  
6 her imprisoned for not more than seventy-two (72) hours, for failure to appear in response to a  
7 summons or for refusal to answer questions or produce evidence or for behavior disrupting a  
8 proceeding or other contempt of his or her authority; provided; however, that no such  
9 imprisonment shall occur prior to review by a judge of the court.

10 (7) To adjudicate a person in contempt and to order him or her fined or to order him or  
11 her imprisoned for not more than seventy-two (72) hours, for failure to comply with a pending  
12 order to provide payment or to perform any other act; provided, however, that no such  
13 imprisonment shall occur prior to review by a judge of the court.

14 (8) To issue a *capias* and/or body attachment for the failure of a party or witness to  
15 appear after having been properly served or given notice by the court and, should the court not be  
16 in session, the person apprehended may be detained at the adult correctional institutions, if an  
17 adult, or at the Rhode Island training school for youth, if a child, until the next session of the  
18 court;

19 (9) To issue writs of habeas corpus to bring before him or her or a judge of the court any  
20 person in jail or in prison to be examined as a witness in a suit or proceeding, civil or criminal,  
21 pending before the court, or whose presence is necessary as a party or otherwise necessary so that  
22 the ends of justice may be attained, and for no other purpose; and

23 (10) To issue warrants of arrest and search warrants to the same extent as an associate  
24 judge of the court.

25 (c) Except as otherwise indicated, a party aggrieved by an order entered by the district  
26 court clerk/magistrate shall be entitled to a review of the order, whether by appeal or otherwise,  
27 by a judge of the court. The court shall, by rules of procedure, establish procedures for review of  
28 contempt and adjudications of ~~the~~ a clerk/magistrate.

29 (d) ~~The~~ A district court clerk/magistrate shall:

30 (1) Be governed by the commission on judicial tenure and discipline, pursuant to chapter  
31 16 of this title, in the same manner as justices and judges;

32 (2) Be subject to all provisions of the canons of judicial ethics;

33 (3) Be subject to all criminal laws relative to judges by virtue of §§ 11-7-1 and 11-7-2.

34 (4) Receive any salary that may be established by the state court administrator pursuant to

1 § 8-15-4. The provisions of this section shall be afforded liberal construction.

2 SECTION 2. 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 - DISTRICT COURT

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- 1           This act would allow for the appointment of more than one district court clerk/magistrate
- 2   by the chief judge of the district court.
- 3           This act would take effect upon passage.

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