

2017 -- H 5063 SUBSTITUTE A

LC000221/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE -- CRIMINAL INJURIES COMPENSATION

Introduced By: Representatives Craven, Knight, McEntee, Ruggiero, and Casimiro

Date Introduced: January 11, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-25-17, 12-25-19 and 12-25-22 of the General Laws in Chapter
2 12-25 entitled "Criminal Injuries Compensation" are hereby amended to read as follows:

3 **12-25-17. Definitions.**

4 As used in this chapter:

5 (1) "Administrator" means the program administrator of this chapter.

6 (2) "Child" means an unmarried person who is under eighteen (18) years of age and
7 includes a stepchild or an adopted child.

8 (3) "Court" means the superior court.

9 (4) "Dependent" means a person wholly or partially dependent upon the income of the
10 victim at the time of his or her death or would have been so dependent but for the incapacity due
11 to the injury from which the death resulted. The term includes a child of the victim born after the
12 death of the victim.

13 (5) "Office" means the office of the general treasurer.

14 (6) "Pecuniary loss" includes:

15 (i) For personal injury:

16 (A) Medical expenses (including psychiatric care) for which the victim is not
17 compensated by any other source;

18 (B) Hospital expenses for which the victim is not compensated by any other source;

19 (C) Loss of past earnings for which the victim is not compensated by any other source;

1 (D) Loss of future earnings because of a disability resulting from the personal injury for
2 which the victim is not compensated by any other source- : and

3 (E) Direct expenses related to the delivery or obtainment of medical or counseling
4 services, or participation in criminal justice proceedings.

5 (ii) For death:

6 (A) Funeral and burial expenses for which the victim's estate is not compensated by any
7 other source; ~~and~~

8 (B) Loss of support to the dependents of the victim for which the dependents are not
9 compensated by any other source- : and

10 (C) Direct expenses related to the participation in funeral services, counseling, or
11 criminal justice proceedings.

12 (iii) Any other expenses actually and necessarily incurred as a result of the personal
13 injury or death for which the victim or his or her estate is not compensated by any other source,
14 but it does not include property damage.

15 (7) "Personal injury" means actual bodily harm, mental or nervous shock, and a
16 pregnancy resulting from sexual attack.

17 (8) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child,
18 grandchild, brother, sister, half-brother, half-sister, and a spouse's parents.

19 (9) "Resident" means any person who has his or her residence within the state of Rhode
20 Island.

21 (10) "State" includes the District of Columbia, the fifty (50) states, and the United States'
22 territories and possessions.

23 (11) "Treasurer" means the general treasurer of the state of Rhode Island or his or her
24 designee.

25 (12) "Victim" means a person who is injured or killed by any act of a person or persons
26 which is within the description of any of the offenses specified in § 12-25-20 and which act
27 occurs in the state of Rhode Island. "Victim" also means a resident of the state of Rhode Island
28 who is a victim of an act of terrorism as defined in 18 U.S.C. § 2331 occurring outside the United
29 States or within the United States as referred to in 42 U.S.C. § 10603b.

30 (13) "1972 Act" means the Criminal Injuries Compensation Act of 1972, established
31 pursuant to former §§ 12-25-1 -- 12-25-12.1.

32 (14) "1996 Act" means the Criminal Injuries Compensation Act of 1996, established
33 pursuant to §§ 12-25-16 -- 12-25-30.

34 **12-25-19. Awarding compensation.**

1 (a) In any case in which a person is injured or killed by any act of a person or persons
2 which is within the description of the offenses listed in § 12-25-20, the victim, his or her
3 guardian, the child advocate as provided in § 42-73-9.1, or in the case of his or her death, a legal
4 representative, may apply to the office for compensation. The office shall provide notice of the
5 application to the attorney general. The office may award compensation in accordance with the
6 provisions of this chapter if the act occurs:

7 (1) Within the physical confines of the state of Rhode Island;

8 (2) Within the maritime jurisdiction of the state of Rhode Island;

9 (3) Outside the state of Rhode Island to any victim who has his or her residence in the
10 state of Rhode Island and had the residence in the state at the time that the offense occurred, and
11 is not entitled to compensation of any kind from the state, possession, or territory or district of the
12 United States in which the offense occurred; or

13 (4) Outside the state of Rhode Island to any victim who had his or her residence in the
14 state of Rhode Island at the time the offense occurred who is injured or killed by an act of
15 terrorism occurring either outside of the United States, as defined in 18 U.S.C. § 2331, or within
16 the United States as referred to in 42 U.S.C. § 10603b.

17 (b) The office may award compensation as described in this section:

18 (1) To or on behalf of the injured person, or his or her guardian;

19 (2) In the case of the personal injury of the victim where the compensation is for
20 pecuniary loss suffered or expenses incurred by any person responsible for the maintenance of the
21 victim, to that person; or

22 (3) In the case of the death of the victim, to or for the benefit of the dependents or closest
23 relative of the deceased victim, or any one or more of the dependents or to the legal representative
24 of the victim.

25 (c) For the purposes of this chapter, a person shall be deemed to have intended an act
26 notwithstanding that, by reason of age, insanity, drunkenness, or otherwise, he or she was legally
27 incapable of forming a criminal intent.

28 (d) (1) In determining whether to award compensation as described in this section and the
29 amount of compensation, the office shall consider any circumstances it determines to be relevant,
30 including, but not limited to:

31 (i) compliance by the victim with the reasonable requests of law enforcement agencies
32 and personnel;

33 (ii) violent felonious criminal conduct of the victim committed within the past five (5)
34 years or subsequent to his or her injury;

1 (iii) any conviction of a crime of violence by the victim; and
2 (iv) the behavior of the victim ~~which~~ , including past behavior, that directly or indirectly
3 contributed to his or her injury or death, unless the injury or death resulted from the victim's
4 lawful attempt to prevent the commission of a crime or to apprehend an offender. The office may
5 reduce or deny an award based on these circumstances.

6 (2) Any individual who is incarcerated at any criminal institutional facility at the time of
7 his or her injury shall be deemed ineligible to receive an award of compensation as described in
8 this section.

9 (e) No compensation may be awarded unless the office so directs upon a finding that:

10 (1) The act did occur; and

11 (2) The injury or death resulted from the act.

12 (f) An award may be made under this section whether or not any person is prosecuted or
13 convicted of any offense arising out of the act, or if the act is the subject of any other legal action.
14 Upon application from the attorney general, the office shall suspend proceedings under this
15 chapter until the application is withdrawn or until a prosecution for an offense arising out of the
16 act is no longer pending or imminent. The office may suspend proceedings in the interest of
17 justice if a criminal or civil action arising from the act is pending or imminent.

18 (g) The office shall pay to the person named in the award of compensation, and the
19 payments shall be made from the violent crimes indemnity account and from any federal moneys
20 available as coordinated by the office.

21 (h) Where compensable medical services have been rendered, any award made payable to
22 a medical provider shall be based on the current final adjustment to charge ratio approved by the
23 department of labor and training pursuant to chapter 33 of title 28 and applied by the Rhode
24 Island workers' compensation unit in establishing payout ratios for inpatient charges, emergency
25 room charges, and ambulatory surgery charges. Amounts awarded for all other medical services
26 shall be based on the current Rhode Island Workers' Compensation Medical Fee Schedule. If the
27 provider employs a sliding scale fee structure for any category of patient or service, the award
28 shall not exceed the amount the applicant would be charged if he or she qualified under the
29 provider's sliding scale fee structure. Medical service providers shall be required to accept these
30 awards as full payment for services rendered and shall be prohibited from assessing any
31 additional charges against the victim.

32 **12-25-22. Limitations upon awarding compensation.**

33 (a) Actions for compensation under this chapter shall be commenced within three (3)
34 years after the date of the personal injury or death, and no compensation shall be awarded for an

1 injury or death resulting from a crime which was not reported to the appropriate law enforcement
2 authority within ~~ten (10)~~ fifteen (15) days of its occurrence; provided, that the office shall have
3 the authority to allow a claim which was not reported pursuant to this section when the victim
4 was below the age of eighteen (18) years of age or of unsound mind, or for good cause shown.

5 (b) No compensation shall be awarded under this chapter to the victim, or in the case of
6 death to dependent relatives or to the legal representative, in a total amount in excess of twenty-
7 five thousand dollars (\$25,000) plus any attorney fees awarded upon appeal to the treasurer or to
8 the superior court pursuant to § 12-25-25.

9 (c) No compensation shall be awarded when the office, in its discretion, determines that
10 unjust enrichment to or on behalf of the offender would result. Compensation under this chapter
11 shall not be awarded to any victim or dependent relative or legal representative if the award
12 would directly or indirectly inure to the benefit of the offender.

13 (d) No interest shall be included in or added to an award of compensation under this
14 chapter.

15 (e) When the plaintiff is the victim's estate, it shall only be awarded compensation for the
16 victim's actual medical, hospital, funeral, and burial expenses for which the victim or his or her
17 estate is not compensated by any other source and for the loss of support to the dependents of the
18 victim.

19 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 CRIMINAL PROCEDURE -- CRIMINAL INJURIES COMPENSATION

1 This act would amend the definition of "pecuniary loss" under the criminal injuries
2 compensation act to include expenses relating to medical or counseling services, expenses
3 relating to participation of criminal justice proceedings, and funeral services.

4 This act would also amend the circumstances which the treasurer's office must consider
5 in the awarding of compensation, and would increase the number of days within which a victim
6 must report a crime in order to be eligible for compensation under the act from ten (10) to fifteen
7 (15) days.

8 This act would take effect upon passage.

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2017 -- H 5117 SUBSTITUTE A

LC000646/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Blazewski, Slater, Diaz, Craven, and Knight

Date Introduced: January 13, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-19-8, 12-19-9, 12-19-14, 12-19-15, 12-19-19 and 12-19-34 of
2 the General Laws in Chapter 12-19 entitled "Sentence and Execution" are hereby amended to
3 read as follows:

4 **12-19-8. Suspension of sentence and probation by superior or district court.**

5 (a) Application. - Except where the suspension of sentence shall otherwise be prohibited
6 by law, and subject to the purposes and limits imposed by this section and §12-19-8.1, whenever
7 any defendant shall appear for sentence before the superior or district court, the court may impose
8 a sentence and suspend the execution of the sentence, in whole or in part, or place the defendant
9 on probation without the imposition of a suspended sentence. The suspension shall place the
10 defendant on probation for the time ~~and on any terms and conditions~~ of probation that the court
11 may fix and pursuant to the terms and conditions set by §12-19-8.1.

12 (b) Duration. - The period of probation for a felony shall be set for a period of time as
13 required by law, or in accordance with judicial sentencing benchmarks. ~~, where no sentence is~~
14 ~~imposed or where sentence is entirely suspended,~~ The period of probation for a misdemeanor,
15 where no sentence is imposed or where sentence is entirely suspended, may be for any period up
16 to the maximum time of sentence provided by applicable statutes. Where sentence is imposed and
17 suspended in part, the term ordered to be served and the period of probation together shall not
18 exceed the maximum time of sentence provided by applicable statutes.

19 (c) ~~At any time during the term of a sentence imposed, the probation and parole unit of~~

1 ~~the department of corrections may seek permission of the superior or district court to modify a~~
2 ~~defendant's conditions of probation set at the time of sentence by either imposing additional~~
3 ~~conditions of probation or removing previously imposed conditions of probation to provide for~~
4 ~~more effective supervision of the defendant. Failure of the defendant to comply with modified~~
5 ~~conditions of probation may result in a violation of probation being filed pursuant to § 12-19-9.~~

6 **12-19-9. Violation of terms of probation -- Notice to attorney general -- Revocation**
7 **or continuation of suspension.**

8 (a) Whenever any person who has been placed on probation pursuant to § 12-9-8 violates
9 the terms and conditions of his or her probation as fixed by the court, the police or the probation
10 authority shall inform the attorney general of the violation, and the attorney general shall cause
11 the defendant to appear before the court. The department of corrections ~~court may request the~~
12 ~~division of field rehabilitative services to~~ shall promptly render a report relative to the conduct of
13 the defendant, ~~and, pending receipt of the report, and the information contained in any report~~
14 under §12-13-24.1. The division of rehabilitative services may recommend that the time served
15 up to that point is a sufficient response to a violation that is not a new alleged crime. The court
16 may order the defendant held without bail for a period not exceeding ten (10) days, excluding
17 Saturdays, Sundays, and holidays.

18 (b) The court shall conduct a hearing within thirty (30) days of arrest unless waived by
19 the defendant to determine whether the defendant has violated the terms and conditions of his or
20 her probation, at which hearing the defendant shall have the opportunity to be present and to
21 respond. Upon a determination by a fair preponderance of the evidence that the defendant has
22 violated the terms and conditions of his or her probation the court, in open court and in the
23 presence of the defendant, may:

24 (1) Remove ~~remove~~ the suspension and order the defendant committed on the sentence
25 previously imposed, or on a lesser sentence, ~~or~~;

26 (2) Impose ~~impose~~ a sentence if one has not been previously imposed, ~~or may~~;

27 (3) Stay all or a portion of the sentence imposed after removal of the suspension;

28 (4) Continue ~~continue~~ the suspension of a sentence previously imposed, ~~as to the court~~
29 ~~may seem just and proper. ; or~~

30 (5) Convert a sentence of probation without incarceration to a suspended sentence.

31 (c) The court shall sentence for a violation under subsection (b) of this section in
32 accordance with judicial sentencing benchmarks.

33 **12-19-14. Violation of terms of probation -- Notice to court -- Revocation or**
34 **continuation of suspension.**

1 (a) Whenever any person, who has been placed on probation by virtue of the suspension
2 of execution of his or her sentence pursuant to § 12-19-13, violates the terms and conditions of
3 his or her probation as fixed by the court, the police or department of corrections division of ~~field~~
4 rehabilitative services shall cause the defendant to appear before the court. The ~~court may require~~
5 ~~the~~ division of ~~field~~ rehabilitative services ~~to~~ shall promptly render a written report relative to the
6 conduct of the defendant, ~~and, pending receipt of the report, and the information contained in any~~
7 report under §12-13-24.1. The division of rehabilitative services may recommend that the time
8 served up to that point is a sufficient response to a violation that is not a new alleged crime. The
9 court may order the defendant held without bail for a period not exceeding ten (10) days
10 excluding Saturdays, Sundays, and holidays.

11 (b) The court shall conduct a hearing within thirty (30) days of arrest unless waived by
12 the defendant to determine whether the defendant has violated the terms and conditions of his or
13 her probation, at which hearing the defendant shall have the opportunity to be present and to
14 respond. Upon a determination by a fair preponderance of the evidence that the defendant has
15 violated the terms and conditions of his or her probation the court, in open court and in the
16 presence of the defendant, may as to the court may seem just and proper:

17 (1) Revoke ~~revoke~~ the suspension and order the defendant committed on the sentence
18 previously imposed, or on a lesser sentence, ~~or may continue the suspension as to the court may~~
19 ~~seem just and proper. ;~~

20 (2) Impose a sentence if one has not been previously imposed; or

21 (3) Stay all or a portion of the sentence imposed after removal of the suspension;

22 (4) Continue the suspension of a sentence previously imposed; or

23 (5) Convert a sentence of probation without incarceration to a suspended sentence.

24 **12-19-15. Term of probation -- Power to commit after termination of original**
25 **sentence.**

26 The power of the court to commit the defendant shall not be deemed to terminate with the
27 termination of the period of the original sentence, but the court shall have power to enforce the
28 sentence even though the original period of the sentence has expired. The term of the suspended
29 sentence may be longer or shorter or for the same time as the probation period, and the time
30 during which the defendant is on probation shall not be deemed by §§ 12-19-13 -- 12-19-17 to be
31 a part of the term of his or her sentence, although the court, in its discretion, may give
32 consideration to the probationer's conduct during the probationary period in imposing a sanction
33 or enforcing the sentence originally imposed, or any lesser sentence.

34 **12-19-19. Sentencing on plea of guilty or nolo contendere -- Deferral of sentence.**

1 (a) Whenever any person is arraigned before the superior court and pleads guilty or nolo
2 contendere, he or she may be at any time sentenced by the court; provided, that if at any time the
3 court formally defers sentencing, then the person and the ~~attorney general~~ court shall enter into a
4 written deferral agreement to be filed with the clerk of the court. When a court formally defers
5 sentence, the court may only impose sentence ~~within~~ up to five (5) years from and after the date
6 of the written deferral agreement, unless during the ~~five (5) year~~ required period, the person shall
7 be declared to have violated the terms and conditions of the deferment pursuant to subsection (b)
8 in which event the court may impose sentence.

9 (b) ~~It shall be an express condition of any deferment of sentence in accordance with this~~
10 ~~section~~ The court may require that the person agreeing to said deferment of sentence shall not
11 violate any condition of the written deferral agreement ~~at all times during the period of deferment~~
12 ~~keep the peace and be of good behavior~~. A violation of ~~this express condition or~~ any ~~other~~
13 condition set forth by ~~either the court or~~ the written deferral agreement shall violate the terms and
14 conditions of the deferment of sentence and the court may impose a sanction or impose sentence.
15 The determination of whether a violation has occurred shall be made by the court in accordance
16 with procedures relating to violation of probation in court rules and §§ 12-19-2 and 12-19-14.

17 (c) If a person, after the completion of the ~~five year (5)~~ deferment period is determined
18 by the court after a hearing to have complied with all of the terms and conditions of the deferral
19 agreement including, but not limited to, the payment in full of any court-ordered fines, fees, costs,
20 assessments, and restitution to victims of crime, then the person shall become immediately
21 eligible for consideration for expungement pursuant to the provisions of §§ 12-1.3-2 and 12-1.3-
22 3.

23 **12-19-34. Priority of restitution payments to victims of crime.**

24 (a) (1) If a person, pursuant to §§ 12-19-32, 12-19-32.1, or 12-19-33, is ordered to make
25 restitution in the form of monetary payment the court may order that it shall be made through the
26 administrative office of state courts which shall record all payments and pay the money to the
27 person injured in accordance with the order or with any modification of the order; provided, in
28 cases where ~~court ordered restitution totals less than two hundred dollars (\$200)~~ the court
29 determines that the defendant has the present ability to make full restitution, payment shall be
30 made at the time of sentencing ~~if the court determines that the defendant has the present ability to~~
31 ~~make restitution~~.

32 (2) Payments made on account when both restitution to a third-party is ordered, and court
33 costs, fines, and fees, and assessments related to prosecution are owed, shall be disbursed by the
34 administrative office of the state courts in the following priorities:

1 (i) Upon determination of restitution, court ordered restitution payments shall be paid
2 first to persons injured until such time as the court's restitution is fully satisfied;

3 (ii) Followed by the payment of court costs, fines, fees, and assessments related to
4 prosecution.

5 (3) Notwithstanding any other provision of law, any interest which has been accrued by
6 the restitution account in the central registry shall be deposited on a regular basis into the crime
7 victim compensation fund, established by chapter 25 of this title. In the event that the office of the
8 administrator of the state courts cannot locate the person or persons to whom restitution is to be
9 made, the principal of the restitution payment shall escheat to the state pursuant to the provisions
10 of chapter 8-12.

11 (b) The state is authorized to develop rules and/or regulations relating to assessment,
12 collection, and disbursement of restitution payments when any of the following events occur:

13 (1) The defendant is incarcerated or on home confinement or has completed probation
14 without completing restitution but is able to pay some portion of the restitution; or

15 (2) The victim dies before restitution payments are completed.

16 (c) The state may maintain a civil action to place a lien on the personal or real property of
17 a defendant who is assessed restitution, as well as to seek wage garnishment, and/or seek
18 enforcement of civil judgment entered in accordance with §12-28-5.1 consistent with state and
19 federal law.

20 SECTION 2. Chapter 12-19 of the General Laws entitled "Sentence and Execution" is
21 hereby amended by adding thereto the following sections:

22 **12-19-8.1. Conditions of probation.**

23 (a) The following shall constitute basic conditions of probation applicable to all
24 defendants upon whom a period of probation has been imposed:

25 (1) Obey all laws;

26 (2) Report to the probation officer and parole officer as directed;

27 (3) Remain within the state of Rhode Island except with the prior approval, specifically
28 or as an agreed routine, of the probation and parole office;

29 (4) Notify the probation and parole officer immediately of any change of address,
30 telephone number, or employment;

31 (5) Make every effort to keep steadily employed or attend school or vocational training;

32 (6) Waive extradition from anywhere in the United States to Rhode Island, if required to
33 appear in any Rhode Island court;

34 (7) Provide a DNA sample if required by §§ 12-1.5-7 and 12-1.5-8;

1 (8) Pay restitution, court costs, and fines, if assessed, in one or several sums, based on the
2 defendant's ability to pay; and

3 (9) Submit to a risk and needs assessment.

4 (b) Special probation conditions related to community service, computer restrictions, no
5 contact orders, or any other conditions deemed just and reasonable may be imposed at the
6 discretion of the court.

7 (c) At any time during the term of a sentence imposed, the probation and parole unit of
8 the department of corrections may seek permission of the superior or district court to modify a
9 defendant's basic conditions or special conditions of treatment or counseling by either imposing
10 additional conditions or removing previously imposed conditions of probation to provide for
11 more effective supervision of the defendant.

12 (d) Failure of the defendant to comply with modified conditions of probation constitutes a
13 violation.

14 **12-19-40. Severability.**

15 If any provision of this chapter or its application to any person or circumstances is held
16 invalid, that invalidity shall not affect other provisions or applications of the chapter which can be
17 given effect without the invalid provision or application, and to this end the provisions of this
18 chapter are declared to be severable.

19 SECTION 3. This act shall take effect upon passage and shall be applicable to all cases
20 pending as of the effective date.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

1 This act would make several changes to the sentencing and execution guidelines for
2 purposes of criminal procedure and would add new conditions of criminal probation.

3 This act would take effect upon passage and would be applicable to all cases pending as
4 of the effective date.

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2017 -- H 5115 SUBSTITUTE A

LC000553/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL OFFENSES -- GENERAL PROVISIONS

Introduced By: Representatives Ajello, Regunberg, Knight, Blazejewski, and Craven

Date Introduced: January 13, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-5-2 of the General Laws in Chapter 11-5 entitled "Assaults" is
2 hereby amended to read as follows:

3 **11-5-2. Felony assault.**

4 (a) Every person who shall make an assault or battery, or both, with a dangerous weapon,
5 or with acid or other dangerous substance, or by fire, or an assault or battery which results in
6 serious bodily injury; shall be guilty of a felony assault. If such assault results in serious bodily
7 injury it shall be punished by imprisonment for not more than twenty (20) years. Every other
8 felony assault which results in bodily injury or no injury shall be punished by imprisonment for
9 not more than six (6) years.

10 (b) Where the provisions of "The Domestic Violence Prevention Act", chapter 29 of title
11 12, are applicable, the penalties for violation of this section shall also include the penalties as
12 provided in § 12-29-5.

13 (c) "Serious bodily injury" means physical injury that:

14 (1) Creates a substantial risk of death;

15 (2) Causes protracted loss or impairment of the function of any bodily part, member or
16 organ; or

17 (3) Causes serious permanent disfigurement or circumcises, excises or infibulates the
18 whole or any part of the labia majora or labia minora or clitoris of a person.

19 (d) "Bodily injury" means physical injury that causes physical pain, illness, or any

1 [impairment of physical condition.](#)

2 SECTION 2. Section 11-41-5 of the General Laws in Chapter 11-41 entitled "Theft,
3 Embezzlement, False Pretenses, and Misappropriation" is hereby amended to read as follows:

4 **11-41-5. Penalties for larceny.**

5 (a) Any person convicted of any offense under §§ 11-41-1 -- 11-41-6, except § 11-41-3,
6 ~~if shall be punished as follows, according to~~ the value of the property or money stolen, received,
7 embezzled, fraudulently appropriated, converted, or obtained, received, taken, or secreted by false
8 pretenses or otherwise with intent to cheat, defraud, embezzle, or fraudulently convert:

9 [\(1\) If the value](#) exceeds one thousand five hundred dollars (\$1,500), [and is less than five](#)
10 [thousand dollars \(\\$5,000\), by imprisonment for not more than three \(3\) years or by a fine of not](#)
11 [more than one thousand five hundred dollars \(\\$1,500\), or both;](#)

12 [\(2\) If the value exceeds five thousand dollars \(\\$5,000\), but is less than ten thousand](#)
13 [dollars \(\\$10,000\), by imprisonment for not more than six \(6\) years or by a fine of not more than](#)
14 [three thousand dollars \(\\$3,000\), or both; and](#)

15 [\(3\) If the value exceeds ten thousand dollars \(\\$10,000\),](#) or if the property is a firearm as
16 defined in § 11-47-5.1, regardless of its value, [the person](#) shall be punished by imprisonment for
17 not more than ten (10) years or by a fine of not more than five thousand dollars (\$5,000), or both.
18 If the value ~~of the property or money~~ does not exceed one thousand five hundred dollars (\$1,500),
19 the person shall be punished by imprisonment for not more than one year, or by a fine of not more
20 than five hundred dollars (\$500), or both. Any person convicted of an offense under § 11-41-2
21 who shall be found to have knowingly obtained the property from a person under eighteen (18)
22 years of age, notwithstanding the value of the property [or money](#), shall be punished by
23 imprisonment for not more than ten (10) years or by a fine of not more than five thousand dollars
24 (\$5,000), or both.

25 (b) Any person convicted of an offense in violation of §§ 11-41-1 -- 11-41-7, except §
26 11-41-3, which involves a victim who is a person sixty-five (65) years of age or older at the time
27 of the offense and which involves property or money stolen, received, embezzled, fraudulently
28 appropriated, converted, or obtained, received, taken, or secreted by false pretenses or otherwise
29 with intent to cheat, defraud, embezzle, or fraudulently convert, with a value in excess of five
30 hundred dollars (\$500), shall be punished by imprisonment for not less than two (2) years but not
31 more than fifteen (15) years or by a fine of not more than five thousand dollars (\$5,000), or both.
32 If the value of the property or money does not exceed five hundred dollars (\$500), the person
33 shall be punished by imprisonment for not less than one year but not more than five (5) years or
34 by a fine of not more than three thousand dollars (\$3,000), or both.

1 SECTION 3. This act shall take effect upon passage and applies to offenses committed
2 on or after the effective date.

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LC000553/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- GENERAL PROVISIONS

1 This act would clarify what constitutes a felony, misdemeanor, and petty misdemeanor in
2 the definition section of the general laws, and would also amend the penalties for certain criminal
3 offenses involving assault and larceny, based on the value of property stolen.

4 This act would take effect upon passage and applies to offenses committed on or after the
5 effective date.

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LC000553/SUB A/2
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2017 -- H 5128 SUBSTITUTE A

LC000647/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINALS - CORRECTIONAL INSTITUTIONS - PAROLE, MEDICAL
PAROLE, COMMUNITY CONFINEMENT, AND CORRECTIONAL IMPACTS

Introduced By: Representatives Almeida, McKiernan, O'Brien, Craven, and Knight

Date Introduced: January 18, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 13-8-14.1 and 13-8-19 of the General Laws in Chapter 13-8
2 entitled "Parole" are hereby amended to read as follows:

3 **13-8-14.1. Parole standards.**

4 (a) At least once each calendar year the parole board shall adopt standards to be utilized
5 by the board in evaluating applications for parole of persons convicted of a criminal offense and
6 sentenced to the adult correctional institutions. These standards shall establish, with the range of
7 parole eligibility set by statute, the portion of a sentence which should be served depending on the
8 likelihood of recidivism as determined by a risk assessment, and shall serve as guidelines for the
9 board in making individual parole determinations.

10 (b) The board shall consider the applicable standard prior to rendering a decision on a
11 parole application, and may make a determination at variance with that standard only upon a
12 finding that the determination is warranted by individualized factors, such as the character, ~~and~~
13 ~~criminal record~~ criminal history, and attitudes of the applicant that bear on the likelihood to
14 reoffend, the nature and circumstances of the offense or offenses for which the applicant was
15 ~~sentenced~~, the conduct of the applicant while incarcerated, including meaningful participation in a
16 risk-reducing program and substantial compliance with the rules of the institution, and risk-
17 reducing behavior and the criteria set forth in § 13-8-14. "Risk-reducing program" means a
18 program that adheres to those elements that are shown in research to reduce recidivism.

2017 -- H 5117 SUBSTITUTE A

LC000646/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

Introduced By: Representatives Blazewski, Slater, Diaz, Craven, and Knight

Date Introduced: January 13, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-19-8, 12-19-9, 12-19-14, 12-19-15, 12-19-19 and 12-19-34 of
2 the General Laws in Chapter 12-19 entitled "Sentence and Execution" are hereby amended to
3 read as follows:

4 **12-19-8. Suspension of sentence and probation by superior or district court.**

5 (a) Application. - Except where the suspension of sentence shall otherwise be prohibited
6 by law, and subject to the purposes and limits imposed by this section and §12-19-8.1, whenever
7 any defendant shall appear for sentence before the superior or district court, the court may impose
8 a sentence and suspend the execution of the sentence, in whole or in part, or place the defendant
9 on probation without the imposition of a suspended sentence. The suspension shall place the
10 defendant on probation for the time ~~and on any terms and conditions~~ of probation that the court
11 may fix and pursuant to the terms and conditions set by §12-19-8.1.

12 (b) Duration. - The period of probation for a felony shall be set for a period of time as
13 required by law, or in accordance with judicial sentencing benchmarks. ~~, where no sentence is~~
14 ~~imposed or where sentence is entirely suspended,~~ The period of probation for a misdemeanor,
15 where no sentence is imposed or where sentence is entirely suspended, may be for any period up
16 to the maximum time of sentence provided by applicable statutes. Where sentence is imposed and
17 suspended in part, the term ordered to be served and the period of probation together shall not
18 exceed the maximum time of sentence provided by applicable statutes.

19 (c) ~~At any time during the term of a sentence imposed, the probation and parole unit of~~

1 ~~the department of corrections may seek permission of the superior or district court to modify a~~
2 ~~defendant's conditions of probation set at the time of sentence by either imposing additional~~
3 ~~conditions of probation or removing previously imposed conditions of probation to provide for~~
4 ~~more effective supervision of the defendant. Failure of the defendant to comply with modified~~
5 ~~conditions of probation may result in a violation of probation being filed pursuant to § 12-19-9.~~

6 **12-19-9. Violation of terms of probation -- Notice to attorney general -- Revocation**
7 **or continuation of suspension.**

8 (a) Whenever any person who has been placed on probation pursuant to § 12-9-8 violates
9 the terms and conditions of his or her probation as fixed by the court, the police or the probation
10 authority shall inform the attorney general of the violation, and the attorney general shall cause
11 the defendant to appear before the court. The department of corrections ~~court may request the~~
12 ~~division of field rehabilitative services to~~ shall promptly render a report relative to the conduct of
13 the defendant, ~~and, pending receipt of the report, and the information contained in any report~~
14 under §12-13-24.1. The division of rehabilitative services may recommend that the time served
15 up to that point is a sufficient response to a violation that is not a new alleged crime. The court
16 may order the defendant held without bail for a period not exceeding ten (10) days, excluding
17 Saturdays, Sundays, and holidays.

18 (b) The court shall conduct a hearing within thirty (30) days of arrest unless waived by
19 the defendant to determine whether the defendant has violated the terms and conditions of his or
20 her probation, at which hearing the defendant shall have the opportunity to be present and to
21 respond. Upon a determination by a fair preponderance of the evidence that the defendant has
22 violated the terms and conditions of his or her probation the court, in open court and in the
23 presence of the defendant, may:

24 (1) Remove ~~remove~~ the suspension and order the defendant committed on the sentence
25 previously imposed, or on a lesser sentence, ~~or~~;

26 (2) Impose ~~impose~~ a sentence if one has not been previously imposed, ~~or may~~;

27 (3) Stay all or a portion of the sentence imposed after removal of the suspension;

28 (4) Continue ~~continue~~ the suspension of a sentence previously imposed, ~~as to the court~~
29 ~~may seem just and proper. ; or~~

30 (5) Convert a sentence of probation without incarceration to a suspended sentence.

31 (c) The court shall sentence for a violation under subsection (b) of this section in
32 accordance with judicial sentencing benchmarks.

33 **12-19-14. Violation of terms of probation -- Notice to court -- Revocation or**
34 **continuation of suspension.**

1 (a) Whenever any person, who has been placed on probation by virtue of the suspension
2 of execution of his or her sentence pursuant to § 12-19-13, violates the terms and conditions of
3 his or her probation as fixed by the court, the police or department of corrections division of ~~field~~
4 rehabilitative services shall cause the defendant to appear before the court. The ~~court may require~~
5 ~~the~~ division of ~~field~~ rehabilitative services ~~to~~ shall promptly render a written report relative to the
6 conduct of the defendant, ~~and, pending receipt of the report, and the information contained in any~~
7 report under §12-13-24.1. The division of rehabilitative services may recommend that the time
8 served up to that point is a sufficient response to a violation that is not a new alleged crime. The
9 court may order the defendant held without bail for a period not exceeding ten (10) days
10 excluding Saturdays, Sundays, and holidays.

11 (b) The court shall conduct a hearing within thirty (30) days of arrest unless waived by
12 the defendant to determine whether the defendant has violated the terms and conditions of his or
13 her probation, at which hearing the defendant shall have the opportunity to be present and to
14 respond. Upon a determination by a fair preponderance of the evidence that the defendant has
15 violated the terms and conditions of his or her probation the court, in open court and in the
16 presence of the defendant, may as to the court may seem just and proper:

17 (1) Revoke ~~revoke~~ the suspension and order the defendant committed on the sentence
18 previously imposed, or on a lesser sentence, ~~or may continue the suspension as to the court may~~
19 ~~seem just and proper. ;~~

20 (2) Impose a sentence if one has not been previously imposed; or

21 (3) Stay all or a portion of the sentence imposed after removal of the suspension;

22 (4) Continue the suspension of a sentence previously imposed; or

23 (5) Convert a sentence of probation without incarceration to a suspended sentence.

24 **12-19-15. Term of probation -- Power to commit after termination of original**
25 **sentence.**

26 The power of the court to commit the defendant shall not be deemed to terminate with the
27 termination of the period of the original sentence, but the court shall have power to enforce the
28 sentence even though the original period of the sentence has expired. The term of the suspended
29 sentence may be longer or shorter or for the same time as the probation period, and the time
30 during which the defendant is on probation shall not be deemed by §§ 12-19-13 -- 12-19-17 to be
31 a part of the term of his or her sentence, although the court, in its discretion, may give
32 consideration to the probationer's conduct during the probationary period in imposing a sanction
33 or enforcing the sentence originally imposed, or any lesser sentence.

34 **12-19-19. Sentencing on plea of guilty or nolo contendere -- Deferral of sentence.**

1 (a) Whenever any person is arraigned before the superior court and pleads guilty or nolo
2 contendere, he or she may be at any time sentenced by the court; provided, that if at any time the
3 court formally defers sentencing, then the person and the ~~attorney general~~ court shall enter into a
4 written deferral agreement to be filed with the clerk of the court. When a court formally defers
5 sentence, the court may only impose sentence ~~within~~ up to five (5) years from and after the date
6 of the written deferral agreement, unless during the ~~five (5) year~~ required period, the person shall
7 be declared to have violated the terms and conditions of the deferment pursuant to subsection (b)
8 in which event the court may impose sentence.

9 (b) ~~It shall be an express condition of any deferment of sentence in accordance with this~~
10 ~~section~~ The court may require that the person agreeing to said deferment of sentence shall not
11 violate any condition of the written deferral agreement ~~at all times during the period of deferment~~
12 ~~keep the peace and be of good behavior~~. A violation of ~~this express condition or~~ any ~~other~~
13 condition set forth by ~~either the court or~~ the written deferral agreement shall violate the terms and
14 conditions of the deferment of sentence and the court may impose a sanction or impose sentence.
15 The determination of whether a violation has occurred shall be made by the court in accordance
16 with procedures relating to violation of probation in court rules and §§ 12-19-2 and 12-19-14.

17 (c) If a person, after the completion of the ~~five year (5)~~ deferment period is determined
18 by the court after a hearing to have complied with all of the terms and conditions of the deferral
19 agreement including, but not limited to, the payment in full of any court-ordered fines, fees, costs,
20 assessments, and restitution to victims of crime, then the person shall become immediately
21 eligible for consideration for expungement pursuant to the provisions of §§ 12-1.3-2 and 12-1.3-
22 3.

23 **12-19-34. Priority of restitution payments to victims of crime.**

24 (a) (1) If a person, pursuant to §§ 12-19-32, 12-19-32.1, or 12-19-33, is ordered to make
25 restitution in the form of monetary payment the court may order that it shall be made through the
26 administrative office of state courts which shall record all payments and pay the money to the
27 person injured in accordance with the order or with any modification of the order; provided, in
28 cases where ~~court ordered restitution totals less than two hundred dollars (\$200)~~ the court
29 determines that the defendant has the present ability to make full restitution, payment shall be
30 made at the time of sentencing ~~if the court determines that the defendant has the present ability to~~
31 ~~make restitution~~.

32 (2) Payments made on account when both restitution to a third-party is ordered, and court
33 costs, fines, and fees, and assessments related to prosecution are owed, shall be disbursed by the
34 administrative office of the state courts in the following priorities:

1 (i) Upon determination of restitution, court ordered restitution payments shall be paid
2 first to persons injured until such time as the court's restitution is fully satisfied;

3 (ii) Followed by the payment of court costs, fines, fees, and assessments related to
4 prosecution.

5 (3) Notwithstanding any other provision of law, any interest which has been accrued by
6 the restitution account in the central registry shall be deposited on a regular basis into the crime
7 victim compensation fund, established by chapter 25 of this title. In the event that the office of the
8 administrator of the state courts cannot locate the person or persons to whom restitution is to be
9 made, the principal of the restitution payment shall escheat to the state pursuant to the provisions
10 of chapter 8-12.

11 (b) The state is authorized to develop rules and/or regulations relating to assessment,
12 collection, and disbursement of restitution payments when any of the following events occur:

13 (1) The defendant is incarcerated or on home confinement or has completed probation
14 without completing restitution but is able to pay some portion of the restitution; or

15 (2) The victim dies before restitution payments are completed.

16 (c) The state may maintain a civil action to place a lien on the personal or real property of
17 a defendant who is assessed restitution, as well as to seek wage garnishment, and/or seek
18 enforcement of civil judgment entered in accordance with §12-28-5.1 consistent with state and
19 federal law.

20 SECTION 2. Chapter 12-19 of the General Laws entitled "Sentence and Execution" is
21 hereby amended by adding thereto the following sections:

22 **12-19-8.1. Conditions of probation.**

23 (a) The following shall constitute basic conditions of probation applicable to all
24 defendants upon whom a period of probation has been imposed:

25 (1) Obey all laws;

26 (2) Report to the probation officer and parole officer as directed;

27 (3) Remain within the state of Rhode Island except with the prior approval, specifically
28 or as an agreed routine, of the probation and parole office;

29 (4) Notify the probation and parole officer immediately of any change of address,
30 telephone number, or employment;

31 (5) Make every effort to keep steadily employed or attend school or vocational training;

32 (6) Waive extradition from anywhere in the United States to Rhode Island, if required to
33 appear in any Rhode Island court;

34 (7) Provide a DNA sample if required by §§ 12-1.5-7 and 12-1.5-8;

1 (8) Pay restitution, court costs, and fines, if assessed, in one or several sums, based on the
2 defendant's ability to pay; and

3 (9) Submit to a risk and needs assessment.

4 (b) Special probation conditions related to community service, computer restrictions, no
5 contact orders, or any other conditions deemed just and reasonable may be imposed at the
6 discretion of the court.

7 (c) At any time during the term of a sentence imposed, the probation and parole unit of
8 the department of corrections may seek permission of the superior or district court to modify a
9 defendant's basic conditions or special conditions of treatment or counseling by either imposing
10 additional conditions or removing previously imposed conditions of probation to provide for
11 more effective supervision of the defendant.

12 (d) Failure of the defendant to comply with modified conditions of probation constitutes a
13 violation.

14 **12-19-40. Severability.**

15 If any provision of this chapter or its application to any person or circumstances is held
16 invalid, that invalidity shall not affect other provisions or applications of the chapter which can be
17 given effect without the invalid provision or application, and to this end the provisions of this
18 chapter are declared to be severable.

19 SECTION 3. This act shall take effect upon passage and shall be applicable to all cases
20 pending as of the effective date.

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LC000646/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL PROCEDURE -- SENTENCE AND EXECUTION

1 This act would make several changes to the sentencing and execution guidelines for
2 purposes of criminal procedure and would add new conditions of criminal probation.

3 This act would take effect upon passage and would be applicable to all cases pending as
4 of the effective date.

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LC000646/SUB A/2
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1 (c) In each case where the board grants an application prior to the time set by the
2 applicable standard or denies an application on or after the time set by that standard, the board
3 shall set forth in writing the rationale for its determination.

4 **13-8-19. Arrest and return to institution on revocation of parole.**

5 (a) Whenever the permit of a prisoner is revoked, in accordance with the provisions of §
6 13-8-18.1 the parole board shall order the prisoner to be returned to the adult correctional
7 institutions or to the women's division of the adult correctional institutions, as the case may be, to
8 serve the remainder of the prisoner's original sentence according to the terms of that sentence.

9 (b) The time between the release of the prisoner under the permit and the prisoner's return
10 to the adult correctional institutions or the women's division of the adult correctional institutions
11 under order of the board ~~shall not~~ may be considered as any part of the prisoner's original
12 sentence. The parole board may choose to credit or revoke all or part of the time while released
13 under the permit from the original sentence, taking into consideration the seriousness of the
14 violation that prompted revocation. The board shall adopt standards to be utilized in determining
15 whether to credit all or part of the time served under the permit from the original sentence.

16 (c) If a prisoner is at liberty when the prisoner's permit is revoked, the chairperson shall
17 issue his or her warrant to any officer authorized to serve criminal process to arrest the prisoner
18 and return the prisoner to the adult correctional institutions or the women's division of the adult
19 correctional institutions in accordance with the provisions of § 13-8-18.1 as ordered by the board.

20 (d) Where the prisoner is supervised by the parole board pursuant to a grant of parole by
21 a state or jurisdiction other than Rhode Island, the parole board shall issue a detention warrant
22 and order the prisoner committed to the adult correctional institution or the women's division of
23 the adult correctional institution until the authority from the state or other jurisdiction having
24 granted the prisoner parole takes custody of the prisoner.

25 SECTION 2. Sections 13-8.1-3 and 13-8.1-4 of the General Laws in Chapter 13-8.1
26 entitled "Medical Parole" are hereby amended to read as follows:

27 **13-8.1-3. Definitions.**

28 (a) "Permanently physically incapacitated" means suffering from a condition caused by
29 injury, disease, ~~or~~ illness, or cognitive insult such as dementia or persistent vegetative state,
30 which, to a reasonable degree of medical certainty, permanently and irreversibly physically
31 incapacitates the individual to the extent that the individual needs help with most of the activities
32 that are necessary for independence such as feeding, toileting, dressing, and bathing and
33 transferring, or no significant physical activity is possible, and the individual is confined to bed or
34 a wheelchair.

1 (b) "Terminally ill" means suffering from a condition caused by injury (except self-
2 inflicted injury), disease, or illness which to a reasonable degree of medical certainty is a life-
3 limiting diagnosis that will lead to profound functional, cognitive and/or physical decline, and
4 likely will result in death within ~~six (6)~~ eighteen (18) months.

5 (c) "Severely ill" means suffering from a significant and permanent or chronic physical
6 and/or mental condition that: (1) Requires extensive medical and/or psychiatric treatment with
7 little to no possibility of recovery; and (2) Precludes significant rehabilitation from further
8 incarceration.

9 **13-8.1-4. Procedure.**

10 (a) The parole board is authorized to grant release of a prisoner, except a prisoner serving
11 life without parole, at any time, who is determined to be terminally ill, severely ill or permanently
12 physically incapacitated within the meaning of § 13-8.1-3. Inmates who are severely ill will only
13 be considered for such release when their treatment causes the state to incur exorbitant expenses
14 as a result of continued and frequent medical treatment during incarceration, as determined by the
15 office of financial resources of the department of corrections.

16 (b) In order to apply for this relief, the prisoner or their family member or friend, with an
17 attending physician's written approval, or an attending physician, on behalf of the prisoner, shall
18 file an application with the director of the department of corrections. Within seventy-two (72)
19 hours after the filing of any application, the director shall refer the application to the health
20 service unit of the department of corrections for a medical report and a medical discharge plan to
21 be completed within ten (10) days. Upon receipt of the medical discharge plan the director of the
22 department of corrections shall immediately transfer the medical discharge plan together with the
23 application to the parole board for its consideration and decision.

24 (c) The report shall contain, at a minimum, the following information:

25 (1) Diagnosis of the prisoner's medical conditions, including related medical history;

26 (2) Detailed description of the conditions and treatments;

27 (3) Prognosis, including life expectancy, likelihood of recovery, likelihood of
28 improvement, mobility and trajectory; and rate of debilitation;

29 (4) Degree of incapacity or disability, including an assessment of whether the prisoner is
30 ambulatory, capable of engaging in any substantial physical activity, ability to independently
31 provide for their daily life activities, and the extent of that activity;

32 (5) An opinion from the medical director as to whether the person is terminally ill, and if
33 so, the stage of the illness or whether the person is permanently physically incapacitated or
34 severely ill. If the medical director's opinion is that the person is not terminally ill, permanently,

1 physically incapacitated, or severely ill as defined in § 13-8.1-3, the petition for medical parole
2 shall not be forwarded to the parole board.

3 (6) In the case of a severely ill inmate, the report shall also contain a determination from
4 the office of financial resources that the inmate's illness causes the state to incur exorbitant
5 expenses as a result of continued and frequent medical treatment during incarceration.

6 (d) When the director of corrections refers a prisoner to the parole board for medical
7 parole, the director shall provide to the parole board a medical discharge plan which is acceptable
8 to the parole board.

9 (e) The department of corrections and the parole board shall jointly develop standards for
10 the medical discharge plan that are appropriately adapted to the criminal justice setting. The
11 discharge plan should ensure at the minimum that:

12 (1) An appropriate placement for the prisoner has been secured, including, but not limited
13 to, a hospital, nursing facility, hospice, or family home;

14 (2) A referral has been made for the prisoner to secure a source for payment of the
15 prisoner's medical expenses;

16 (3) A parole officer has been assigned to periodically obtain updates on the prisoner's
17 medical condition to report back to the board.

18 (f) If the parole board finds from the credible medical evidence that the prisoner is
19 terminally ill, permanently physically incapacitated, or severely ill, the board shall grant release
20 to the prisoner but only after the board also considers whether, in light of the prisoner's medical
21 condition, there is a reasonable probability that the prisoner, if released, will live and remain at
22 liberty without violating the law, and that the release is compatible with the welfare of society
23 and will not so depreciate the seriousness of the crime as to undermine respect for the law.
24 Notwithstanding any other provision of law, release may be granted at any time during the term
25 of a prisoner's sentence.

26 (g) There shall be a presumption that the opinion of the physician and/or medical director
27 will be accepted. However, the applicant, the physician, the director, or the parole board may
28 request an independent medical evaluation within seven (7) days after the physician's and/or
29 medical director's report is presented. The evaluation shall be completed and a report, containing
30 the information required by subsection (b) of this section, filed with the director and the parole
31 board and a copy sent to the applicant within fourteen (14) days from the date of the request.

32 (h) Within seven (7) days of receiving the application, the medical report and the
33 discharge plan, the parole board shall determine whether the application, on its face, demonstrates
34 that relief may be warranted. If the face of the application clearly demonstrates that relief is

1 unwarranted, the board may deny the application without a hearing or further proceedings, and
2 within seven (7) days shall notify the prisoner in writing of its decision to deny the application,
3 setting forth its factual findings and a brief statement of the reasons for denying release without a
4 hearing. Denial of release does not preclude the prisoner from reapplying for medical parole after
5 the expiration of sixty (60) days. A reapplication under this section must demonstrate a material
6 change in circumstances.

7 (i) (1) Upon receipt of the application from the director of the department of corrections
8 the parole board shall, except as provided in subsection (h) of this section, set the case for a
9 hearing within thirty (30) days;

10 (2) Notice of the hearing shall be sent to the prosecutor and the victim(s), if any, of the
11 offense(s) for which the prisoner is incarcerated, and the prosecutor and the victim(s) shall have
12 the right to be heard at the hearing, or in writing, or both;

13 (3) At the hearing, the prisoner shall be entitled to be represented by an attorney or by the
14 public defender if qualified or other representative.

15 (j) Within seven (7) days of the hearing, the parole board shall issue a written decision
16 granting or denying medical parole and explaining the reasons for the decision. If the board
17 determines that medical parole is warranted, it shall impose conditions of release, which shall
18 include the following:

19 (1) Periodic medical examinations;

20 (2) Periodic reporting to a parole officer, and the reporting interval;

21 (3) Any other terms or conditions that the board deems necessary; and

22 (4) In the case of a prisoner who is medically paroled due to being severely ill, the parole
23 board shall require electronic monitoring as a condition of the medical parole, unless the health
24 care plan mandates placement in a medical facility that cannot accommodate the electronic
25 monitoring.

26 (k) If after release the releasee's condition or circumstances change so that he or she
27 would not then be eligible for medical parole, the parole board may order him or her returned to
28 custody to await a hearing to determine whether his or her release should be revoked. A release
29 may also be revoked for violation of conditions otherwise applicable to parole.

30 (l) An annual report shall be prepared by the director of corrections for the parole board
31 and the general assembly. The report shall include:

32 (1) The number of inmates who have applied for medical parole;

33 (2) The number who have been granted medical parole;

34 (3) The nature of the illness of the applicants, and the nature of the placement pursuant to

1 the medical discharge plan;

2 (4) The categories of reasons for denial for those who have been denied;

3 (5) The number of releasees on medical parole who have been returned to the custody of
4 the department of corrections and the reasons for return.

5 SECTION 3. Section 42-56-20.2 of the General Laws in Chapter 42-56 entitled
6 "Corrections Department" is hereby amended to read as follows:

7 **42-56-20.2. Community confinement.**

8 (a) Persons subject to this section. Every person who shall have been adjudged guilty of
9 any crime after trial before a judge, a judge and jury, or before a single judge entertaining the
10 person's plea of nolo contendere or guilty to an offense ("adjudged person") and every person
11 sentenced to imprisonment in the adult correctional institutions ("sentenced person") including
12 those sentenced or imprisoned for civil contempt, and every person awaiting trial at the adult
13 correctional institutions ("detained person") who meets the criteria set forth in this section shall
14 be subject to the terms of this section except:

15 (1) Any person who is unable to demonstrate that a permanent place of residence
16 ("eligible residence") within this state is available to that person; or

17 (2) Any person who is unable to demonstrate that he or she will be regularly employed,
18 or enrolled in an educational or vocational training program within this state, and within thirty
19 (30) days following the institution of community confinement; or

20 (3) (i) Any adjudged person or sentenced person or detained person who has been
21 convicted, within the five (5) years next preceding the date of the offense for which he or she is
22 currently so adjudged or sentenced or detained, of a violent felony.

23 A "violent felony" as used in this section shall mean any one of the following crimes or
24 an attempt to commit that crime: murder, manslaughter, sexual assault, mayhem, robbery,
25 burglary, assault with a dangerous weapon, assault or battery involving serious bodily injury,
26 arson, breaking and entering into a dwelling, child molestation, kidnapping, DWI resulting in
27 death or serious injury, driving to endanger resulting in death or serious injury.

28 (ii) Any person currently adjudged guilty of or sentenced for or detained on any capital
29 felony; or

30 (iii) Any person currently adjudged guilty of or sentenced for or detained on a felony
31 offense involving the use of force or violence against a person or persons.

32 These shall include, but are not limited to, those offenses listed in subsection (a)(3)(i); or

33 (iv) Any person currently adjudged guilty, sentenced, or detained for the sale, delivery, or
34 possession with intent to deliver a controlled substance in violation of § 21-28-4.01(a)(4)(i) or

1 possession of a certain enumerated quantity of a controlled substance in violation of §§ 21-28-
2 4.01.1 or 21-28-4.01.2.

3 (v) Any person currently adjudged guilty of or sentenced for or detained on an offense
4 involving the illegal possession of a firearm.

5 (b) Findings prior to sentencing to community confinement. In the case of adjudged
6 persons, if the judge intends to impose a sentence of community confinement, he or she shall first
7 make specific findings, based on evidence regarding the nature and circumstances of the offense
8 and the personal history, character, record, and propensities of the defendant which are relevant to
9 the sentencing determination, and these findings shall be placed on the record at the time of
10 sentencing. These findings shall include, but are not limited to:

11 (1) A finding that the person does not demonstrate a pattern of behavior indicating a
12 propensity for violent behavior;

13 (2) A finding that the person meets each of the eligibility criteria set forth in subsection
14 (a);

15 (3) A finding that simple probation is not an appropriate sentence;

16 (4) A finding that the interest of justice requires, for specific reasons, a sentence of non-
17 institutional confinement; and

18 (5) A finding that the person will not pose a risk to public safety if placed in community
19 confinement.

20 The facts supporting these findings shall be placed on the record, and shall be subject to
21 review on appeal.

22 (c) Community confinement.

23 (1) There shall be established within the department of corrections, a community
24 confinement program to serve that number of adjudged persons, sentenced persons and detainees,
25 that the director of the department of corrections ("director") shall determine on or before July 1
26 of each year. Immediately upon that determination, the director shall notify the presiding justice
27 of the superior court of the number of adjudged persons, sentenced persons, and detainees that
28 can be accommodated in the community confinement program for the succeeding twelve (12)
29 months. One-half (1/2) of all persons sentenced to community confinement shall be adjudged
30 persons, and the balance shall be detainees and sentenced persons. The director shall provide to
31 the presiding justice of the superior court and the family court on the first day of each month a
32 report to set forth the number of adjudged persons, sentenced persons and detainees participating
33 in the community confinement program as of each reporting date. Notwithstanding any other
34 provision of this section, if on April 1 of any fiscal year less than one-half (1/2) of all persons

1 sentenced to community confinement shall be adjudged persons, then those available positions in
2 the community confinement program may be filled by sentenced persons or detainees in
3 accordance with the procedures set forth in subdivision (c)(2) of this section.

4 (2) In the case of inmates other than those classified to community confinement under
5 subsection (h), the director may make written application ("application") to the sentencing judge
6 for an order ("order") directing that a sentenced person or detainee be confined within an eligible
7 residence for a period of time, which in the case of a sentenced person, shall not exceed the term
8 of imprisonment. This application and order shall contain a recommendation for a program of
9 supervision and shall contain the findings set forth in subsections (b)(1), (b)(2), (b)(3), (b)(4), and
10 (b)(5) and facts supporting these findings. The application and order may contain a
11 recommendation for the use of electronic surveillance or monitoring devices. The hearing on this
12 application shall be held within ten (10) business days following the filing of this application. If
13 the sentencing judge is unavailable to hear and consider the application the presiding justice of
14 the superior court shall designate another judge to do so.

15 (3) In lieu of any sentence, which may be otherwise imposed upon any person subject to
16 this section, the sentencing judge may cause an adjudged person to be confined within an eligible
17 residence for a period of time not to exceed the term of imprisonment otherwise authorized by the
18 statute the adjudged person has been adjudged guilty of violating.

19 (4) With authorization by the sentencing judge, or, in the case of sentenced persons
20 classified to community confinement under subsection (h) by the director of corrections, or in
21 accordance with the order, persons confined under the provisions of this chapter may be
22 permitted to exit the eligible residence in order to travel directly to and from their place of
23 employment or education or training and may be confined in other terms or conditions consistent
24 with the basic needs of that person that justice may demand, including the right to exit the eligible
25 residence to which that person is confined for certain enumerated purposes such as religious
26 observation, medical and dental treatment, participation in an education or vocational training
27 program, and counseling, all as set forth in the order.

28 (d) Administration. (1) Community confinement. The supervision of persons confined
29 under the provisions of this chapter shall be conducted by the director, or his or her designee.

30 (2) Intense surveillance. The application and order shall prescribe a program of intense
31 surveillance and supervision by the department of corrections. Persons confined under the
32 provisions of this section shall be subject to searches of their persons or of their property when
33 deemed necessary by the director, or his or her designee, in order to ensure the safety of the
34 community, supervisory personnel, the safety and welfare of that person and/or to ensure

1 compliance with the terms of that person's program of community confinement; provided,
2 however, that no surveillance, monitoring or search shall be done at manifestly unreasonable
3 times or places nor in a manner or by means that would be manifestly unreasonable under the
4 circumstances then present.

5 (3) The use of any electronic surveillance or monitoring device which is affixed to the
6 body of the person subject to supervision is expressly prohibited unless set forth in the application
7 and order or, in the case of sentenced persons classified to community confinement under
8 subsection (h), otherwise authorized by the director of corrections.

9 (4) Regulatory authority. The director shall have full power and authority to enforce any
10 of the provisions of this section by regulation, subject to the provisions of the Administrative
11 Procedures Act, chapter 35 of title 42. Notwithstanding any provision to the contrary, the
12 department of corrections may contract with private agencies to carry out the provisions of this
13 section. The civil liability of those agencies and their employees, acting within the scope of their
14 employment, and carrying out the provision of this section, shall be limited in the same manner
15 and dollar amount as if they were agencies or employees of the state.

16 (e) Violations. Any person confined pursuant to the provisions of this section, who is
17 found to be a violator of any of the terms and conditions imposed upon him or her according to
18 the order, or in the case of sentenced persons classified to community confinement under
19 subsection (h), otherwise authorized by the director of corrections, this section, or any rules,
20 regulations, or restrictions issued pursuant hereto ~~shall be ineligible for parole, and~~ shall serve the
21 balance of his or her sentence in a classification deemed appropriate by the director. If that
22 conduct constitutes a violation of § 11-25-2, the person, upon conviction, shall be subject to an
23 additional term of imprisonment of not less than one year and not more than twenty (20) years.
24 However, it shall be a defense to any alleged violation that the person was at the time of the
25 violation acting out of a necessary response to an emergency situation. An "emergency situation"
26 shall be construed to mean the avoidance by the defendant of death or of substantial personal
27 injury, as defined above, to him or herself or to others.

28 (f) Costs. Each person confined according to this section shall reimburse the state for the
29 costs or a reasonable portion thereof incurred by the state relating to the community confinement
30 of those persons. Costs shall be initially imposed by the sentencing judge or in the order and shall
31 be assessed by the director prior to the expiration of that person's sentence. Once assessed, those
32 costs shall become a lawful debt due and owing to the state by that person. Monies received under
33 this section shall be deposited as general funds.

34 (g) Severability. Every word, phrase, clause, section, subsection, and any of the

1 provisions of this section are hereby declared to be severable from the whole, and a declaration of
2 unenforceability or unconstitutionality of any portion of this section, by a judicial court of
3 competent jurisdiction, shall not affect the portions remaining.

4 (h) Sentenced persons approaching release. Notwithstanding the provisions set forth
5 within this section, any sentenced person committed under the direct care, custody, and control of
6 the adult correctional institutions, who is within six (6) months of the projected good time release
7 date, provided that the person shall have completed at least one-half (1/2) of the full term of
8 incarceration, or any person who is sentenced to a term of six (6) months or less of incarceration,
9 provided that the person shall have completed at least three-fourths (3/4) of the term of
10 incarceration, may in the discretion of the director of corrections be classified to community
11 confinement. This provision shall not apply to any person whose current sentence was imposed
12 upon conviction of murder, first degree sexual assault or first degree child molestation.

13 (i) Notification to police departments. The director, or his or her designee, shall notify the
14 appropriate police department when a sentenced, adjudged or detained person has been placed
15 into community confinement within that department's jurisdiction. That notice will include the
16 nature of the offense and the express terms and conditions of that person's confinement. That
17 notice shall also be given to the appropriate police department when a person in community
18 confinement within that department's jurisdiction is placed in escape status.

19 (j) No incarceration credit for persons awaiting trial. No detainee shall be given
20 incarceration credit by the director for time spent in community confinement while awaiting trial.

21 (k) No confinement in college or university housing facilities. Notwithstanding any
22 provision of the general laws to the contrary, no person eligible for community confinement shall
23 be placed in any college or university housing facility, including, but not limited to, dormitories,
24 fraternities or sororities. College or university housing facilities shall not be considered an
25 "eligible residence" for "community confinement."

26 (l) A sentencing judge shall have authority to waive overnight stay or incarceration at the
27 adult correctional institution after the sentencing of community confinement. Such a waiver shall
28 be binding upon the adult correctional institution and the staff thereof, including, but not limited
29 to the community confinement program.

30 SECTION 4. Chapter 42-56 of the General Laws entitled "Corrections Department" is
31 hereby amended by adding thereto the following section:

32 **42-56-5.1. Justice reinvestment.**

33 [\(a\) The department, in conjunction with the performance management staff at the office](#)
34 [of management and budget, shall monitor the implementation of justice reinvestment policies for](#)

1 the period from 2017 to 2022, utilizing a benefit-cost model, such as the one developed and
2 supported by the Pew-MacArthur Results First Initiative, including:

3 (1) Adoption and use of screening and assessment tools to inform judicial and executive
4 branch decisions regarding arraignment and bail, pretrial conditions and supervision, probation
5 and parole supervision, correctional programs, and parole release;

6 (2) Use of court rules designed to accelerate the disposition and improve the procedural
7 fairness of pretrial decisions, including violations of bail, filing, deferred sentence, and probation;

8 (3) Use of judicial sentencing benchmarks designed to:

9 (i) Guide purposeful, limited probation and suspended sentence terms; and
10 (ii) Achieve proportionate sanctions for violations;

11 (4) Progress by the department of corrections, division of rehabilitative services, in
12 achieving the initiatives required by §42-56-7;

13 (5) The feasibility of implementing additional law enforcement training in responding to
14 people with behavioral health and substance abuse needs, and of providing for one or more
15 suitable locations for such people to be referred for treatment; and

16 (6) Barriers to reentry and the availability and effectiveness of programs designed to
17 increase employability and employment of people in the criminal justice system.

18 (b) The department shall attempt to report on data analyzing key decision points with
19 information broken out by offense, risk, and appropriate demographic data whenever available.
20 The report must provide, or report on efforts to provide, relevant measures including the
21 following:

22 (1) The number of people for whom a pre-arraignment report is conducted under §12-13-
23 24.1, and the number who are affected by each subdivision of subsection (a) of this section;

24 (2) The number of people who are eligible for pre-trial diversion opportunities and the
25 number of people selected for diversion programs;

26 (3) Length of probation terms and suspended sentences imposed;

27 (4) Sanctions imposed by probation officers and by courts and the violations triggering
28 the sanctions;

29 (5) Pre-trial lengths of stay including length prior to probation violation hearings;

30 (6) Volume and characteristics of people on probation caseloads, including limited and
31 high intensity caseloads;

32 (7) Restitution amounts imposed and percentage of collections by increment of time
33 under correctional control;

34 (8) Community-based cognitive behavioral treatment programs funded, including the

1 amount of funding received by each program and the number of high-risk probation clients
2 served;

3 (9) Batterers intervention programs funded to increase or refine treatment, including the
4 amount of funding received by each program and the number of clients served; and

5 (10) Amounts of victim restitution assessed and collected.

6 **42-56-42. Severability.**

7 If any provision of this chapter or its application to any person or circumstances is held
8 invalid, that invalidity shall not affect other provisions or applications of the chapter which can be
9 given effect without the invalid provision or application, and to this end the provisions of this
10 chapter are declared to be severable.

11 SECTION 5. This act shall take effect upon passage.

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LC000647/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINALS - CORRECTIONAL INSTITUTIONS - PAROLE, MEDICAL
PAROLE, COMMUNITY CONFINEMENT, AND CORRECTIONAL IMPACTS

- 1 This act would amend certain provisions of the general laws pertaining to parole, medical
- 2 parole, and community confinement.
- 3 This act would take effect upon passage.

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LC000647/SUB A/2
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2017 -- H 5115 SUBSTITUTE A

LC000553/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL OFFENSES -- GENERAL PROVISIONS

Introduced By: Representatives Ajello, Regunberg, Knight, Blazejewski, and Craven

Date Introduced: January 13, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-5-2 of the General Laws in Chapter 11-5 entitled "Assaults" is
2 hereby amended to read as follows:

3 **11-5-2. Felony assault.**

4 (a) Every person who shall make an assault or battery, or both, with a dangerous weapon,
5 or with acid or other dangerous substance, or by fire, or an assault or battery which results in
6 serious bodily injury; shall be guilty of a felony assault. If such assault results in serious bodily
7 injury it shall be punished by imprisonment for not more than twenty (20) years. Every other
8 felony assault which results in bodily injury or no injury shall be punished by imprisonment for
9 not more than six (6) years.

10 (b) Where the provisions of "The Domestic Violence Prevention Act", chapter 29 of title
11 12, are applicable, the penalties for violation of this section shall also include the penalties as
12 provided in § 12-29-5.

13 (c) "Serious bodily injury" means physical injury that:

14 (1) Creates a substantial risk of death;

15 (2) Causes protracted loss or impairment of the function of any bodily part, member or
16 organ; or

17 (3) Causes serious permanent disfigurement or circumcises, excises or infibulates the
18 whole or any part of the labia majora or labia minora or clitoris of a person.

19 (d) "Bodily injury" means physical injury that causes physical pain, illness, or any

1 [impairment of physical condition.](#)

2 SECTION 2. Section 11-41-5 of the General Laws in Chapter 11-41 entitled "Theft,
3 Embezzlement, False Pretenses, and Misappropriation" is hereby amended to read as follows:

4 **11-41-5. Penalties for larceny.**

5 (a) Any person convicted of any offense under §§ 11-41-1 -- 11-41-6, except § 11-41-3,
6 ~~if shall be punished as follows, according to~~ the value of the property or money stolen, received,
7 embezzled, fraudulently appropriated, converted, or obtained, received, taken, or secreted by false
8 pretenses or otherwise with intent to cheat, defraud, embezzle, or fraudulently convert:

9 [\(1\) If the value](#) exceeds one thousand five hundred dollars (\$1,500), [and is less than five](#)
10 [thousand dollars \(\\$5,000\), by imprisonment for not more than three \(3\) years or by a fine of not](#)
11 [more than one thousand five hundred dollars \(\\$1,500\), or both;](#)

12 [\(2\) If the value exceeds five thousand dollars \(\\$5,000\), but is less than ten thousand](#)
13 [dollars \(\\$10,000\), by imprisonment for not more than six \(6\) years or by a fine of not more than](#)
14 [three thousand dollars \(\\$3,000\), or both; and](#)

15 [\(3\) If the value exceeds ten thousand dollars \(\\$10,000\),](#) or if the property is a firearm as
16 defined in § 11-47-5.1, regardless of its value, [the person](#) shall be punished by imprisonment for
17 not more than ten (10) years or by a fine of not more than five thousand dollars (\$5,000), or both.
18 If the value ~~of the property or money~~ does not exceed one thousand five hundred dollars (\$1,500),
19 the person shall be punished by imprisonment for not more than one year, or by a fine of not more
20 than five hundred dollars (\$500), or both. Any person convicted of an offense under § 11-41-2
21 who shall be found to have knowingly obtained the property from a person under eighteen (18)
22 years of age, notwithstanding the value of the property [or money](#), shall be punished by
23 imprisonment for not more than ten (10) years or by a fine of not more than five thousand dollars
24 (\$5,000), or both.

25 (b) Any person convicted of an offense in violation of §§ 11-41-1 -- 11-41-7, except §
26 11-41-3, which involves a victim who is a person sixty-five (65) years of age or older at the time
27 of the offense and which involves property or money stolen, received, embezzled, fraudulently
28 appropriated, converted, or obtained, received, taken, or secreted by false pretenses or otherwise
29 with intent to cheat, defraud, embezzle, or fraudulently convert, with a value in excess of five
30 hundred dollars (\$500), shall be punished by imprisonment for not less than two (2) years but not
31 more than fifteen (15) years or by a fine of not more than five thousand dollars (\$5,000), or both.
32 If the value of the property or money does not exceed five hundred dollars (\$500), the person
33 shall be punished by imprisonment for not less than one year but not more than five (5) years or
34 by a fine of not more than three thousand dollars (\$3,000), or both.

1 SECTION 3. This act shall take effect upon passage and applies to offenses committed
2 on or after the effective date.

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LC000553/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- GENERAL PROVISIONS

1 This act would clarify what constitutes a felony, misdemeanor, and petty misdemeanor in
2 the definition section of the general laws, and would also amend the penalties for certain criminal
3 offenses involving assault and larceny, based on the value of property stolen.

4 This act would take effect upon passage and applies to offenses committed on or after the
5 effective date.

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LC000553/SUB A/2
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2017 -- H 5065 SUBSTITUTE A

LC000222/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL PROCEDURE - CORRECTIONS - BATTERERS
INTERVENTION PROGRAMS AND PROBATION SUPERVISION

Introduced By: Representatives Craven, Knight, McEntee, Ruggiero, and Casimiro

Date Introduced: January 11, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 12-29-5.2 of the General Laws in Chapter 12-29 entitled "Domestic
2 Violence Prevention Act" is hereby amended to read as follows:

3 **12-29-5.2. Duties and responsibilities of committee.**

4 (a) The committee shall have the duties and responsibilities to:

5 (1) Establish and promulgate minimum standards for batterers intervention programs
6 serving persons mandated pursuant to § 12-29-5, revise the standards as is deemed necessary,
7 ensure the standards comport with evidence-informed practices designed to reduce risk, and make
8 the standards available to the public, provided that the standards shall include, but not be limited
9 to, the following:

10 (i) Batterers intervention programs shall be conducted using evidence-informed
11 programming and dosage levels designed to reduce the risk of future violent behavior ~~in the~~
12 ~~context of psycho-educational groups, i.e., groups of domestic violence perpetrators led by one or~~
13 ~~more professional group leaders trained and experienced in batterers intervention programming~~
14 ~~and conducted for the purposes of learning and enacting non-abusive behaviors through didactic~~
15 ~~instruction, interaction among participants and leaders, and teaching of skills within the groups;~~

16 (ii) The duration of batterers intervention programs shall be a minimum of forty (40)
17 contact hours over the course of twenty (20) weeks;

18 (iii) Batterers intervention programs shall require that all mandated batterers pay fees for

1 the programs in accordance with the provisions of § 12-29-5; provided, that programs shall
2 accommodate varying levels of ability to pay by means of sliding fee scales and may elect to
3 offer alternatives to payment in the form of community restitution and/or deferred payment for a
4 portion of the fees; and

5 (iv) Provisions shall be established defining the circumstances under which defendants
6 who have attended a batterers program while incarcerated, and/or a batterers program in another
7 jurisdiction which is certified under that jurisdiction's standards or not subject to standards in that
8 jurisdiction, may request that their documented participation in such program be accepted in
9 satisfaction of some portion of their obligation to attend forty (40) hours of a certified batterers
10 intervention program as described in subdivision 12-29-5.2(a)(1)(ii).

11 (2) Monitor and review batterers intervention programs seeking certification with respect
12 to compliance with the standards, including periodic on-site review;

13 (3) Certify those batterers intervention programs which are in compliance with the
14 standards established pursuant to subdivision (1) of this subsection; and

15 (4) Investigate and decide appeals, complaints, requests for variances, and post-
16 enrollment certification applications.

17 (b) For purposes of this chapter, "post-enrollment certification applications" means those
18 applications made to the committee by a batterer mandated to attend a certified batterers
19 intervention program in accordance with § 12-29-5 who has, prior to adjudication, enrolled in a
20 program not certified by the committee. The application shall include supporting documentation
21 from the batterers intervention program and a request that participation in the batterers
22 intervention program be accepted in lieu of the equivalent number of hours of a certified batterers
23 intervention program. The committee shall act upon a post-enrollment certification application
24 within thirty (30) days of receipt of the application.

25 (c) The state public safety grant administration office may provide grants to provide for
26 the access to, and expansion and improvement of, community-based batterers intervention
27 programs. The batterers intervention standards oversight committee shall make recommendations
28 to the public safety grant administration policy board regarding the distribution of funds in the
29 form of grants to programs to cover the costs of delivering quality services to indigent offenders,
30 and to assist community providers and their staffs to utilize outcome-based best practices and
31 effective programming methods.

32 SECTION 2. Sections 42-56-1 and 42-56-7 of the General Laws in Chapter 42-56
33 entitled "Corrections Department" are hereby amended to read as follows:

34 **42-56-1. Declaration of policy.**

1 (a) The ~~legislature~~ general assembly finds and declares that:

2 (1) The state has a basic obligation to protect the public by providing institutional
3 confinement and care of offenders and; evidence-based probation and parole supervision and
4 where appropriate, treatment in the community;

5 (2) Efforts to rehabilitate and restore criminal offenders as law-abiding and productive
6 members of society are essential to the reduction of crime;

7 (3) ~~Upgrading of~~ Maintaining the quality and effectiveness of correctional institutions
8 and rehabilitative services, both inside and outside correctional institutions, deserves priority
9 consideration as a means of lowering crime rates and of preventing offenders, particularly youths,
10 first-offenders, and misdemeanants, from becoming trapped in careers of crime; and

11 (4) Correctional institutions, supervision and services should be so diversified in program
12 and personnel as to facilitate individualized treatment.

13 (b) The purpose of this chapter is to establish a department of state government to
14 provide for the supervision, custody, care, discipline, training, and treatment, ~~and study~~ of
15 persons committed to state correctional institutions or on probation or parole, so that those
16 persons may be prepared for release, aftercare, and supervision in the community.

17 **42-56-7. Parole and probation.**

18 (a) Authority. The division of rehabilitative services, subject to the authority of the
19 director, shall perform the functions relating to the parole and probation of adults as prescribed by
20 this chapter and chapters 18 and 19 of title 12, and under those rules and regulations adopted by
21 the director of corrections with the approval of the governor and the parole board in the executive
22 department.

23 (b) Assessments. The division of rehabilitative services shall adopt risk and needs screens
24 and assessments and behavioral health assessments that are validated at least once every five (5)
25 years for the purpose of informing the following decisions:

26 (1) Probation supervision intensity, case management, and treatment objectives, adopted
27 in collaboration with the superior courts;

28 (2) Correctional treatment and classification; and

29 (3) Parole supervision intensity, case management, and treatment objectives, adopted in
30 collaboration with the parole board, and parole release decisions, adopted in collaboration with,
31 and for implementation by, the parole board.

32 (c) Special conditions. The assessment implemented under subsection (b)(1) of this
33 section should be performed prior to placement on probation, whenever possible, to support
34 judicial decisions affecting conditions of supervision under §12-19-8.1.

1 (d) Supervision. The division of rehabilitative services shall:

2 (1) Provide limited supervision for probationers who qualify based on offense level, time
3 under supervision without a violation, and the results from a validated risk and needs assessment;

4 (2) Provide high-intensity supervision and treatment for probationers who, based on
5 screening and assessments, are high risk to re-offend and present high needs for behavioral health
6 services;

7 (3) Collaborate with the executive office of health and human services to implement
8 Medicaid payment incentives designed to ensure timely access to quality behavioral health
9 treatment and cognitive-behavioral programs for probationers; and

10 (4) Require that program providers serving probationers pursuant to a contract with the
11 department use cognitive-behavioral programs to reduce criminal thinking.

12 (e) Behavioral change guidelines. The division of rehabilitative services shall adopt
13 guidelines for probation and parole officers, governing:

14 (1) Incentives for compliance and risk-reducing behavior;

15 (2) Swift, certain and proportionate non-confinement sanctions in response to
16 corresponding violations of probation conditions; and

17 (3) The use of confinement as a sanction after the consideration of all other appropriate
18 non-confinement sanctions in response to corresponding violations of probation conditions.

19 (f) Training. The division of rehabilitative services shall organize and conduct evidence-
20 based training programs for probation and parole officers. The training shall include:

21 (1) Scoring and use of validated risk and needs assessments under subsection (b) of this
22 section;

23 (2) Risk-based supervision strategies;

24 (3) Cognitive behavioral interventions;

25 (4) Targeting criminal risk factors to reduce recidivism;

26 (5) Use of incentives for compliance and risk-reducing behavior;

27 (6) Use of and swift, certain and proportionate sanctions in response to corresponding
28 violations of probation conditions pursuant to subsection (d)(2) of this section;

29 (7) Recognizing symptoms of substance use and mental health needs and making
30 treatment referrals; and

31 (8) De-escalating erratic criminal behavior.

32 (g) All probation and parole officers employed on or after the effective date of this act
33 shall complete the training requirements set forth in this section. Selected probation and parole
34 officers shall become trainers to ensure sustainability of these training requirements.

1 (h) Information. The division of rehabilitative services shall develop or adopt an
2 automated case management and reporting system for probation and parole officers.

3 (i) Implementation. Deadlines for implementation of this section by the department of
4 corrections shall be as follows: subsection (b) (initial assessment validation), subsection (c)
5 (special condition recommendations), subsection (d) (supervision intensity), and subsection (f)
6 (for training of existing probation and parole officers), one year from the effective date of this
7 section; subsection (e) (behavior change guidelines), six (6) months from the effective date of this
8 section; subsections (f) and (g) (for training of new probation and parole officers) and subsection
9 (h) (case management system), two (2) years from the effective date of this section.

10 SECTION 3. Chapter 42-18 of the General Laws entitled "Department of Health," is
11 hereby amended by adding thereto the following section:

12 **42-18-8. Cooperation with the department of corrections.**

13 The director of the department of health shall coordinate and cooperate with the director
14 of the department of corrections to ensure collaboration around existing department of health
15 programs and initiatives, with regard to people under the care of the department of corrections, on
16 probation, during incarceration, and upon release to the community.

17 SECTION 4. This act shall take effect upon passage.

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LC000222/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CRIMINAL PROCEDURE - CORRECTIONS - BATTERERS
INTERVENTION PROGRAMS AND PROBATION SUPERVISION

- 1 This act would create a batterers intervention program fund. The act would also adopt
2 evidence-based probation and parole supervision systems.
3 This act would take effect upon passage.

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LC000222/SUB A
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2017 -- H 5064 SUBSTITUTE A

LC000223/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - SUPERIOR COURT
DIVERSION

Introduced By: Representatives Craven, Knight, McEntee, Casimiro, and Keable

Date Introduced: January 11, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **8-2-39.3. Superior court diversion.**

4 In accordance with §8-6-2, the superior court may create, with the approval of the
5 supreme court, rules for a superior court diversion program. The presiding justice may assign a
6 justice or magistrate to administer the diversion program, in which the defendant enters a plea to
7 the pending matter and agrees to written contractual conditions of diversion with the justice or
8 magistrate, including reporting to the court as instructed for reviews, until such time as the
9 defendant has completed the diversion program to the court's satisfaction and all reviews are
10 completed. Contractual conditions may include, but are not limited to, compliance with
11 counseling, community service, and restitution obligations.

12 SECTION 2. Section 12-7-12 of the General Laws in Chapter 12-7 entitled "Arrest" is
13 hereby amended to read as follows:

14 ~~**12-7-12. Release of arrested person by officer in charge of police station. Release of**~~
15 ~~**arrested person by officer.**~~

16 (a) The officer in charge of any police station ~~may~~ shall consider the release ~~of~~ any
17 person in his or her station who has been arrested without a warrant:

18 (1) Without requiring the person to appear in court, when the officer is satisfied that there

1 is no ground for making criminal complaint against the person or when the person has been
2 arrested for drunkenness but in the judgment of the officer need not be brought before a
3 magistrate; or

4 (2) If the arrest is for a misdemeanor, upon that person signing an agreement to appear in
5 court at a designated time.

6 (b) Any officer with custody of a person who has been arrested or detained without a
7 warrant may recognize that the person suffers from a serious mental illness and may release and
8 refer the person to the nearest appropriate inpatient mental health facility or outpatient treatment
9 program.

10 SECTION 3. Section 12-10-12 of the General Laws in Chapter 12-10 entitled
11 "Preliminary Proceedings in District Courts" is hereby amended to read as follows:

12 **12-10-12. Filing of complaints.**

13 (a) Subject to any other provisions of law relative to the filing of complaints for particular
14 crimes, any judge of the district court or superior court may place on file any complaint in a
15 criminal case other than a complaint for the commission of a felony or a complaint against a
16 person who has been convicted of a felony or a private complaint. The court may in its discretion
17 require, as a condition of the filing, the performance of services for the public good or may attach
18 any other conditions to it that the court shall determine; provided, in cases where the court
19 ordered restitution totals less than two hundred dollars (\$200) to an injured party pursuant to this
20 section or § 12-19-34, the court shall require that full restitution be made at the time of sentencing
21 if the court determines that the defendant has the present ability to make the restitution.

22 (b) Express conditions of any filing in accordance with this section shall be that the
23 defendant at all times during the one year keep the peace and be of good behavior and shall have
24 paid all outstanding court-imposed or court-related fees, fines, costs, assessments, charges, and/or
25 any other monetary obligations unless reduced or waived by order of the court. A violation of
26 ~~these express conditions, or~~ any ~~other~~ condition set by the court, ~~shall~~ may be deemed a violation
27 of the filing and the matter that was filed may be resurrected by the court, or the court may
28 impose a sanction. A determination of whether a violation has occurred shall be made by the
29 court in accordance with the procedures relating to a violation of probation, §§ 12-19-9 and 12-
30 19-14.

31 (c) In the event the complaint was originally filed under this section subsequent to the
32 defendant's plea of guilty or nolo contendere to the charges, the court, if it finds there to have
33 been a violation but does not impose a sanction, may sentence the defendant. In the event the
34 court filed the complaint under this section while the defendant maintained a plea of not guilty, if

1 the court finds there to have been a violation but does not impose a sanction, it may proceed to
2 the further disposition of the complaint according to law. If no action is taken on the complaint
3 for a period of one year following the filing, the complaint shall be automatically expunged. No
4 criminal record shall result; provided, that in any civil action for a tort, a plea of guilty or a
5 finding of guilty should be admissible notwithstanding the fact that the complaint has been filed.

6 (d) Notwithstanding the foregoing provisions of this section, in the event a complaint for
7 a crime involving domestic violence was originally filed under this section subsequent to the
8 defendant's plea of guilty or nolo contendere to the charges, the court, if it finds there to have
9 been a violation, may sentence the defendant. In the event the court filed the complaint for a
10 crime involving domestic violence under this section while the defendant maintained a plea of not
11 guilty, if the court finds there to have been a violation, it may proceed to the further disposition of
12 the complaint for a crime involving domestic violence according to law. If, for a period of one
13 year after the date of filing, the defendant is not charged with a violation pursuant to subsection
14 (b) of this section, the filed complaint for the crime involving domestic violence shall be
15 automatically quashed and shall not be resurrected. If, for a period of three (3) years after the date
16 of filing, the defendant is not charged with a crime involving domestic violence, or if so charged,
17 is acquitted or the complaint is dismissed, all records relating to the filed complaint for a crime
18 involving domestic violence shall be expunged without the requirement of filing a motion
19 pursuant to chapter 1.3 of title 12. No criminal records shall result, unless in any civil action for a
20 tort, in which a plea of guilty or a finding of guilty is admissible notwithstanding the fact that the
21 complaint has been filed. Provided, however, that in sentencing a defendant for a crime involving
22 domestic violence of which the defendant was charged within three (3) years after the filing of a
23 prior crime involving domestic violence to which the defendant pleaded guilty or nolo
24 contendere, the court may take the plea into consideration.

25 (e) The defendant shall be advised that any and all bail money relating to a case that
26 remains on deposit and is not claimed at the time of expungement shall be escheated to the state's
27 general treasury in accordance with chapter 12 of title 8.

28 SECTION 4. Sections 12-13-24 and 12-13-24.1 of the General Laws in Chapter 12-13
29 entitled "Bail and Recognizance" are hereby amended to read as follows:

30 **12-13-24. Confidentiality of pretrial services program records.**

31 (a) Information supplied by a defendant to a representative of the pretrial services
32 program during the defendant's initial interview or subsequent contacts, or information obtained
33 by the pretrial services program as a result of the interview or subsequent contacts, shall be
34 deemed confidential and shall not be subject to subpoena or to disclosure without the written

1 consent of the defendant except in the following circumstances:

2 (1) Information relevant to the imposition of conditions of release shall be presented to
3 the court on a standardized form when the court is considering what conditions of release to
4 impose;

5 (2) Information furnished by the defendant to the pretrial services program and recorded
6 on a completed interview form shall be furnished to law enforcement officials upon request only
7 if the defendant fails to appear in court when required, after notice to the defendant or the
8 defendant's attorney of record;

9 (3) Information concerning compliance with any conditions of release imposed by the
10 court shall be furnished to the court upon its request for consideration or modification of
11 conditions of release or of sentencing or of probation;

12 (4) Information relevant to sentencing or probation shall be furnished to the court upon
13 its request for consideration in imposing sentence or probation;

14 (5) At its discretion, the court may permit the probation officer, for the purpose of
15 preparing the presentence investigation report, and the defense attorney to inspect the completed
16 interview form; ~~and~~

17 (6) In felony cases, completed pre-arraignment reports shall be provided to the superior
18 court; and

19 ~~(6)~~(7) Any person conducting an evaluation of the pretrial release program may have
20 access to all completed interview forms upon order from the supreme court.

21 (b) At the beginning of the defendant's initial interview with a representative of the
22 pretrial services program, the defendant shall be advised of the above uses of information
23 supplied by him or her or obtained as a result of information supplied by him or her.

24 **12-13-24.1. Pre-trial services unit.**

25 (a) Creation of unit; definitions. - There is created within the district court a pre-trial
26 services unit to provide pre-arraignment and post-arraignment services to defendants. ~~These~~
27 ~~services shall include, but not be limited to: bail information and screening;~~

28 (1) "Pre-arraignment report" may include:

29 (i) The results of a risk screen;

30 (ii) For a defendant who scores as high risk on the risk screen, additional validated
31 screens for mental health and substance use needs, to determine whether more in-depth
32 assessment is needed post-arraignment; and

33 (iii) For a defendant charged with a domestic violence offense under §12-29-2, and who
34 has prior domestic violence offenses or other indications of risk, a lethality or dangerousness

1 assessment.

2 (2) "Post-arraignment service" includes completion of the pre-arraignment report, a post-
3 arraignment report, if necessary, and monitoring of defendants released on conditions that are
4 informed by the pre-arraignment report, bail including substance abuse treatment referrals and
5 testing, referrals to the home confinement program, employment referrals, and any other referrals
6 that may be necessary to carry out the intent of this section.

7 (3) "Risk screen" means a validated, empirically-based pretrial risk tool composed of a
8 brief set of questions that may be answered without interviewing the defendant and are designed
9 to predict failure to appear and risk to re-offend.

10 (b) ~~Bail evaluation~~ Pre-arraignment report. - Whenever any person shall be taken into
11 custody by any peace officer for the purpose of bringing that person before a court for
12 arraignment or any other proceeding which may result in that person being detained pending a
13 final adjudication of the charge, if the person is charged with a felony, or a misdemeanor
14 domestic violence offense under §12-29-2 and has prior domestic violence offenses or other
15 indications of risk, the pretrial services unit shall, time permitting, prepare, ~~a judicial officer may~~
16 ~~cause to be conducted~~ a pre-arraignment report and any ~~or~~ post-arraignment screening of the
17 accused deemed necessary by the court or the pretrial services unit, and shall obtain ~~any~~ relevant
18 information, records and documents that may be useful to the judicial officer in determining the
19 form and type of recognizance and conditions placed on the defendant.

20 (c) Delivery of report. - The pre-arraignment report ~~of the pre-arraignment or~~ and any
21 post-arraignment screening shall be immediately delivered to the judicial officer before whom the
22 accused shall be brought for the purpose of determining the form and conditions of recognizance
23 ~~and shall contain the information set forth in subsection (d) of this section.~~

24 (d) ~~Form of report.—The report of the pre-arraignment or post-arraignment screening~~
25 ~~shall contain the following information regarding the accused:~~

- 26 (1) ~~Name and address;~~
- 27 (2) ~~Date of birth;~~
- 28 (3) ~~Marital status;~~
- 29 (4) ~~Names and addresses of dependents;~~
- 30 (5) ~~Social security number;~~
- 31 (6) ~~Present employment including place of employment, position held and length of~~
32 ~~employment;~~
- 33 (7) ~~Whether or not the accused is under the care of a licensed physician or on any~~
34 ~~medication prescribed by a licensed physician;~~

- 1 (8) ~~Education;~~
- 2 (9) ~~Prior criminal record;~~
- 3 (10) ~~Prior court appearances;~~
- 4 (11) ~~Ties to the community; and~~
- 5 (12) ~~Any other information that may be required to make a determination on the amount~~
- 6 ~~and conditions of recognizance or bail.~~

7 (e) Confidentiality of communications. - The accused shall be advised orally and in a
8 written waiver form for the signature of the accused, that he or she has the right to remain silent
9 and may voluntarily decline to respond to any or all questions that may be put by representatives
10 of the pre-trial services unit. Communications between the accused and representatives of the pre-
11 trial services unit shall be considered confidential pursuant to § 12-13-24.

12 SECTION 5. Section 1 of this act shall take effect upon issuance of applicable rules by
13 the supreme court. Section 4 of this act shall take effect on January 1, 2018. The remaining
14 sections of this act shall take effect upon passage and shall be applicable to all cases pending as of
15 the effective date.

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LC000223/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO COURTS AND CIVIL PROCEDURE - COURTS - SUPERIOR COURT
DIVERSION

1 This act would allow the presiding justice of the superior court, with the approval of the
2 supreme court, to create a superior court diversion program. The program would allow the court
3 to administer rules whereby defendants would participate in substance abuse screening,
4 community service, counseling and any other reasonable conditions, and upon the completion of
5 which, charge(s) would be dismissed and the records and indices of arrest expunged. It would
6 also require restitution be paid in full, if the defendant has the ability to pay, upon filing a
7 complaint pursuant to §12-10-12. This act would further require an officer in charge to consider
8 releasing a person who has been arrested for a misdemeanor conditioned on a summons to appear
9 and would permit an officer to release a suspect with serious mental health issues and refer them
10 to the nearest inpatient or outpatient facility. This act would also alter the pretrial services unit by
11 requiring risk assessments and require additional risk screens for those with a high risk of re-
12 offending or those with past crimes of domestic violence.

13 Section 1 of this act would take effect upon issuance of applicable rules by the supreme
14 court. Section 4 of this act would take effect on January 1, 2018. The remaining sections of this
15 act would take effect upon passage and would be applicable to all cases pending as of the
16 effective date.

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LC000223/SUB A
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