

Title 8. Courts and Civil Procedure - Courts

Chapter 8.2. Traffic Tribunal

§ 8-8.2-1. Establishment--Rule-making authority--Adjudication of violations

(a) There is hereby established a traffic tribunal which shall be charged with the administration and adjudication of traffic violations within its jurisdiction. The traffic tribunal shall be under the supervision of the chief magistrate of the traffic tribunal, who shall be the administrative head of the traffic tribunal and shall have the power to make rules for regulating practice, procedure and business within the traffic tribunal. Pursuant to § 8-6-2, said rules shall be subject to the approval of the supreme court. Such rules, when effective, shall supersede any statutory regulation in conflict therewith. Any person who has been a member of the bar of Rhode Island may be appointed chief magistrate of the traffic tribunal. The chief magistrate of the traffic tribunal shall be appointed by the chief justice of the supreme court, with the advice and consent of the senate, for a period of ten (10) years and until a successor is appointed and qualified. Nothing contained herein shall be construed to prohibit the reappointment of the chief magistrate for one or more ten (10) year terms subject to the advice and consent of the senate. Compensation for the chief magistrate shall be equal to that of an associate judge of the district court.

(b) The judges and magistrates of the traffic tribunal shall hear and determine cases as provided by law. No district court judge appointed pursuant to chapter 8 of this title shall be assigned to perform duties of a judge or magistrate of the traffic tribunal under this chapter. The chief magistrate of the traffic tribunal may assign a judge or magistrate who is authorized to hear and decide cases in the traffic tribunal to serve as administrative judge or magistrate of the traffic tribunal and the administrative judge or magistrate shall perform such administrative duties as may be delegated to him or her by the chief magistrate. Once assigned to the position, the administrative judge or magistrate shall hold said administrative position for the remainder of his or her respective term as a judge or magistrate of the traffic tribunal.

(c)(i) Those judges of the administrative adjudication court in active service on July 1, 1999 shall serve within the traffic tribunal. Whenever the total number of judges and magistrates in the traffic tribunal exclusive of the chief magistrate shall be less than seven (7), the chief justice of the supreme court, with the advice and consent of the senate, may, as needed, assign a duly qualified member of the bar of this state to act as a magistrate to fill such vacancy and shall submit his or her name to the senate for confirmation. In the event of a vacancy in the position of chief magistrate, the chief justice of the supreme court shall appoint a successor in accordance with subsection 8-8.2-1(a). Any magistrate assigned under this section shall serve a term of ten (10) years and until a successor is appointed and qualified, and shall be in the unclassified service of the state. Nothing herein shall be construed to prohibit the assignment of a magistrate to more than one such term, subject to the advice and consent of the senate. Compensation for any such magistrate shall be determined by the chief magistrate of the traffic tribunal subject to appropriation by the general assembly but in no event shall the compensation be equal to or more than that of an associate judge of the district court. Magistrates of the traffic tribunal shall participate in the state retirement system in the same manner as all members of the unclassified service.

(ii) If any judge of the traffic tribunal shall retire, or a vacancy becomes available through death, disability or any other reason, the position shall be filled by a magistrate consistent with the provisions of this section.

(d) Each judge and magistrate of the traffic tribunal shall devote full time to his or her judicial duties, except as may be otherwise provided by law. He or she shall not practice law

while holding office, nor shall he or she be a partner or associate of any person in the practice of law.

(e) Judges and magistrates of the traffic tribunal shall be subject to the provisions of R.I. Const. Art. XI; to the code of judicial conduct or successor code promulgated by the supreme court of this state, to the jurisdiction of the Commission on Judicial Tenure and Discipline in accordance with chapter 16 of this title; and to the administrative authority and control of the chief justice of the supreme court in accordance with chapter 15 of this title, except that §§ 8-15-3 and 8-15-3.1 shall not apply to judges and/or magistrates of the traffic tribunal.

(f) The traffic tribunal shall be a tribunal of record and shall have a seal with such words and devices as it shall adopt.

(g) Judges and magistrates of the traffic tribunal shall have the power to administer oaths and affirmations.

(h) Administrative/supervisory officials. (1) There shall be an assistant to the administrative magistrate of the traffic tribunal who shall be appointed by and serve at the pleasure of the chief magistrate and who shall perform such clerical and administrative duties as may be assigned to him or her by the chief magistrate of the traffic tribunal and the administrative judge or magistrate of the traffic tribunal. The assistant to the administrative judge or magistrate shall have the power to administer oaths and affirmations within the state.

(2) There shall be a clerk of the traffic tribunal who shall be appointed by and serve at the pleasure of the chief magistrate of the traffic tribunal; provided, however, that, effective July 1, 1999, the first clerk of the traffic tribunal shall be that person holding the position of administrator/clerk of the administrative adjudication court as of May 1, 1998, and that person shall hold office for the balance of a term of twelve (12) years which began on September 1, 1992, without the necessity of appointment by the governor or advice and consent of the senate. The clerk of the traffic tribunal shall exercise his or her functions under the direction and control of the chief magistrate of the traffic tribunal and the administrative judge or magistrate of the traffic tribunal. The clerk of the traffic tribunal shall have the power to administer oaths and affirmations within the state.

(i) Clerical Personnel/Court Recorders. (1) The chief magistrate of the traffic tribunal shall appoint deputy clerks and assistance clerks for the traffic tribunal to serve at his or her pleasure. All such clerks may administer oaths and affirmations within the state.

(2) The chief magistrate of the traffic tribunal shall appoint sufficient court recorders to enable all proceedings to be recorded by electronic means and who shall assist in such other clerical duties as may be prescribed from time to time by the chief magistrate of the traffic tribunal.

(3) The chief magistrate of the traffic tribunal shall employ such clerical assistants in addition to deputy clerks as may be required in the traffic tribunal to perform clerical duties.

§ 8-8.2-2. Jurisdiction

(a) Notwithstanding any inconsistent provision of law, all probationary license hearings as provided in § 31-10-26, all violations of the department of transportation, department of environmental management or board of governors for higher education regulations regarding parking, standing, or stopping in areas under the jurisdiction of said agencies, all violations of state statutes relating to motor vehicles, littering and traffic offenses, except those traffic offenses committed in places within the exclusive jurisdiction of the United States, and except driving so as to endanger resulting in death, driving so as to endanger resulting in personal injury, driving while under the influence of liquor or drugs, driving while under the influence of

liquor or drugs resulting in death, driving while under the influence of liquor or drugs resulting in serious bodily injury, reckless driving and other offenses against public safety as provided in § 31-27-4, eluding a law enforcement officer with a motor vehicle in a high speed pursuit, driving after denial, suspension or revocation of license, and leaving the scene of an accident in violation of § 31-26-1 and § 31-26-2, and driving without the consent of the owner and possession of a stolen motor vehicle in violation of § 31-9-1 and § 31-9-2, shall be heard and determined by the traffic tribunal pursuant to the regulations promulgated by the chief magistrate of the traffic tribunal; provided, however, the traffic tribunal shall not hear any parking, standing or stopping violations which occur in any city or town which has established its own municipal court and has jurisdiction over such violations. Nothing contained herein shall abrogate the powers of the Rhode Island family court under the provisions of chapter 1 of title 14.

(b) Notwithstanding any inconsistent provision of law, the traffic tribunal shall have concurrent jurisdiction to hear and determine, pursuant to rules and regulations promulgated by the chief magistrate of the traffic tribunal, all violations of any ordinances, rules and regulations governing the public waters and the speed, management and control of all vessels and the size, type and location and use of all anchorages and moorings within the jurisdiction of the towns of North Kingstown, South Kingstown, Portsmouth, Middletown, Narragansett and Tiverton enforced and supervised by the harbor master and referred to the traffic tribunal, and the terms "traffic violations" and "traffic infraction" when used in this chapter shall include the aforesaid violations and such violations shall be adjudicated in accordance with the provisions of this chapter. Nothing contained herein shall abrogate the powers of the Rhode Island coastal management council under the provisions of chapter 23 of title 46.

(c) Notwithstanding any inconsistent provision of law, the traffic tribunal shall have jurisdiction to hear and determine, pursuant to rules and regulations promulgated by the chief magistrate of the Rhode Island traffic tribunal, all civil violations for §§ 20-1-12, 20-11-20, 20-16-17, 23-22.5-9, 32-2-4 and subsection 46-22-19(1) as set forth in § 42-17.10-1.

(d) A party aggrieved by a final order of the traffic tribunal appeals panel shall be entitled to a review of the order by a judge of the district court. Unless otherwise provided in the rules of procedure of the district court, such review shall be on the record and appellate in nature. The district court shall by rules of procedure establish procedures for review of an order entered by the appeals panel of the traffic tribunal.

(e) Violations of any statute, rule, ordinance or regulation referenced in this section are subject to fines enumerated in § 31-41.1-4.

§ 8-8.2-3. Collection authority--Contempt

(a) A judge or magistrate shall have the authority to enforce the judgments of the tribunal as authorized by law. The procedure for the collection of costs and fines shall generally follow the course of the collection of civil judgments pursuant to chapters 17 and 28 of title 9 to the extent applicable. A judge or magistrate shall not issue a body attachment for any judgment entered prior to the effective date of this section. All peace officers authorized by the law shall exercise the powers of a constable for purposes of making service of any writ or notice issued by the traffic tribunal pursuant to this collection procedure, including the execution of a body attachment. In the event that a body attachment is executed, the detainee must be brought before a judge or magistrate, or if the traffic tribunal is not in session before a justice of the peace authorized pursuant to § 12-10-2 immediately upon detention or as soon thereafter as is reasonably practicable. The amount of fees and fines due to the traffic tribunal shall be noted on a body attachment issued pursuant to this procedure, and a justice of the peace shall accept said monies and order the release of the detainee if the amount due is tendered. If the detainee claims an inability to pay the full amount due, the justice of the peace shall order the release of the detainee pursuant to reasonable bail. The chief magistrate of the traffic tribunal shall issue rules and regulations for the collection process consistent with this section.

(b) A judge or magistrate of the traffic tribunal may adjudicate a person in willful contempt and order him or her fined up to a maximum of five hundred dollars (\$500) for each separate offense. Provided further that, if the judge or magistrate determines that the person is unable to pay the fine or judgment, he or she may order partial payments or establish a payment schedule for the payment of the fine or judgment.

§ 8-8.2-4. Subpoena

(a) The traffic tribunal through its judges, magistrates and clerks is hereby authorized and empowered to summon defendants and issue subpoenas to the same extent as they may be issued by the district court in civil cases in such forms as may be prescribed by rules promulgated by the chief magistrate of the traffic tribunal pursuant to § 8-6-2.

(b) Notaries public and justices of the peace may issue subpoenas returnable before the traffic tribunal to the same extent that they are authorized to do so in civil cases pending before the district court.

§ 8-8.2-5. Security officers--Powers

(a) All full time security officers employed by the traffic tribunal shall have the same immunities and may exercise all powers of sheriffs, city and town police officers, and constables when the security officers are enforcing the laws of this state, and all rules and regulations of the traffic tribunal upon the lands and buildings owned or occupied by the traffic tribunal upon streets and highways immediately adjacent to those lands or when in attendance with a judge or magistrate.

(b) All security officers shall be required to attend the Rhode Island municipal police academy for a period of forty (40) hours for the purpose of training in law enforcement.

(c) When any person is suspected of having committed a felony the superintendent of state police shall be notified following the suspected felon's arrest.

(d) When acting as a constable with the authorization of the Chief Magistrate, he or she may exercise all powers under Rhode Island §§ 8-8-12(10) and 8-8-23.

§ 8-8.2-6. Retirement of judges on reduced pay

(a) Whenever any person engaged as a judge on or before July 2, 1997, has served as a judge of the administrative adjudication court or as a judge of the administrative adjudication court who is reassigned by this chapter to the traffic tribunal for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty five (65) years, the judge may retire from active service and, thereafter, the judge shall receive annually during life a sum equal to three fourths ($\frac{3}{4}$) of the annual salary that the judge was receiving at the time of retirement; provided, however, any person who has served for twenty (20) years and has reached the age of sixty five (65) years, or has so served for fifteen (15) years and reached the age of seventy (70) years, may retired from active service and, thereafter, the judge shall receive annually during his or her life a sum equal to the annual salary he or she was receiving at the time of his or her retirement. In determining eligibility under this section, any judge who has served within the judiciary or as a hearing officer or administrative law judge, may include such service as if the service had been on the administrative adjudication court and shall be included under the provisions of § 36-9-5. Whenever a judge or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(b) Any judge who shall retire in accordance with the provisions of this section may at his or her request, and at the direction of the chief justice of the supreme court subject to the retiree's physical and mental competence, be assigned to perform such services as a judge or magistrate in the traffic tribunal as the chief magistrate of the traffic tribunal or the chief justice shall prescribe. When so assigned and performing that service, he or she shall have all the powers and authority of a judge or magistrate. A retired judge shall not be counted in the number of magistrates provided by law for the traffic tribunal nor shall he or she receive any further emolument other than his or her retirement pay for the performance of the aforesaid services.

§ 8-8.2-7. Retirement contribution

(a) Judges of the administrative adjudication court engaged after December 31, 1989 who are reassigned by this chapter to the traffic tribunal shall have deducted from their total salary beginning December 31, 1989, an amount equal to a rate percent of compensation as specified in § 36-10-1 relating to member contributions to the state retirement system. The receipts collected under this provision shall be deposited in a restricted revenue account entitled "administrative adjudication retirement benefits". Proceeds deposited in this account shall be used to pay judges' retirement costs. The retirement board shall establish rules and regulations to govern the provisions of this section. A judge of the administrative adjudication court reassigned by this chapter to the traffic tribunal who withdraws from service or ceases to be a member for any reason other than death or retirement, shall be paid on demand a refund consisting of the accumulated contributions standing to his or her credit in his or her individual account in the administrative adjudication retirement benefits account. Any member receiving a refund shall thereby forfeit and relinquish all accrued right as a member of the system together with credits for total service previously granted to the member; provided, however, that if any member who has received a refund shall subsequently reenter the service and again become a member of the system, he or she shall have the privilege of restoring all moneys previously received or disbursed to his or her credit as a refund of contributions. Upon the repayment of the refund as herein provided, such member shall again receive credit for the amount of total service which he or she had previously forfeited by the acceptance of the refund.

(b) Whenever any judge of the administrative adjudication court dies from any cause before retirement and has no surviving spouse or minor child(ren), a payment shall be made of the accumulated contributions standing to his or her credit in his or her individual account in the administrative adjudication court judges' retirement account. The payment of the accumulated contributions of the judge shall be made to such person as the judge shall have nominated by written designation duly executed and filed with the retirement board, or if the judge has no filed nomination, or if the person so nominated has died, then to the estate of the deceased judge.

§ 8-8.2-8. State contributions

The state of Rhode Island shall make its contribution for maintaining the system established by § 8-8.2-7 and providing the annuities, benefits, and retirement allowances in accordance with the provisions of this chapter, by annually appropriating an amount which will pay a rate percent of the compensation paid after December 31, 1989 to judges of the administrative adjudication court engaged after December 31, 1989 who are reassigned by this chapter to the traffic tribunal. The rate percent shall be computed and certified in accordance with the procedures set forth in § 36-8-13 and § 36-10-2 under rules and regulations promulgated by the retirement board pursuant to § 36-8-3.

§ 8-8.2-9. Retirement of judges on reduced pay

(a) Whenever any person first engaged as a judge subsequent to July 2, 1997, has served as a judge of the administrative adjudication court or as a judge of the administrative adjudication court who is reassigned by this chapter to the traffic tribunal for twenty (20) years, or has so served for ten (10) years and has reached the age of sixty five (65) years, the judge may retire

from active service and, thereafter, the judge shall receive annually during life a sum equal to three fourths ($3/4$) of his or her average highest three (3) consecutive years of compensation; provided, however any such person who has served twenty (20) years and has reached the age sixty five (65) or has served fifteen (15) years and has reached the age of seventy (70) years, may retire from active service and, thereafter, the judge shall receive annually during life a sum equal to his or her average highest three (3) consecutive years of compensation. In determining eligibility under this section, any judge who has served within the judiciary or as a hearing officer or administrative law judge, may include such service as if the service had been on the administrative adjudication court and shall be included under the provision of § 36-9-5. Whenever a justice or magistrate shall be granted a leave of absence without pay, such absence shall not be credited towards active service time for the purposes of retirement.

(b) Any judge who shall retire in accordance with the provisions of this section may at his or her own request, and at the direction of the chief justice of the supreme court subject to the retiree's physical and mental competence, be assigned to perform such services as a magistrate in the traffic tribunal as the chief magistrate or chief justice shall prescribe. When so assigned and performing that service, he or she shall have all the powers and authority of a magistrate. A retired judge shall not be counted in the number of magistrates provided by law for the division of traffic adjudication nor shall he or she receive any further emolument other than his or her retirement pay for the performance of the aforesaid services.

§ 8-8.2-10. No incremental retirement benefit for temporary service as chief justice, presiding justice or chief judge or chief magistrate

No increment in salary resulting from the application of personnel rule 4.0217 or any other or successor rule or regulation providing for an increment in salary for temporary service as chief justice, presiding justice or chief magistrate shall be construed to add to the annual salary of a judicial officer for purposes of retirement under § 8-8.2-6 or § 8-8.2-9.

§ 8-8.2-11. Allowance to surviving spouses or domestic partners of deceased judges

Whenever any judge of the administrative adjudication court or any judge of the administrative adjudication court who is reassigned by this chapter to the traffic tribunal dies after retirement or during active service while eligible for retirement, the judge's surviving spouse or domestic partner shall receive annually thereafter during his or her lifetime and so long as he or she remains unmarried or not in a domestic partnership, an amount equal to one third ($1/3$) of the annual payment that the administrative judge was receiving by way of salary or retirement pay at the time of his or her death. Whenever a judge of the administrative adjudication court or any judge of the administrative adjudication court who is reassigned by this act to the traffic tribunal shall die without having become eligible to retire under § 8-8.2-6 and has served ten (10) years or more in office, his or her surviving spouse or domestic partner shall receive annually thereafter during the spouse's or domestic partner's lifetime and so long as he or she remains unmarried or not in a domestic partnership, one fourth ($1/4$) of the annual salary that the judge was receiving at the time of his or her death.

Any judge who retires under the provisions of § 8-8.2-6 may at his or her option elect to receive three fourths ($3/4$) of his or her retirement pay, and where the option is exercised by giving the general treasurer notice in writing thereof within two (2) years after the date of his or her retirement, his or her surviving spouse or domestic partner shall receive annually one half ($1/2$) of his or her retirement pay during the spouse's or domestic partner's lifetime so long as he or she remains unmarried or not in a domestic partnership.

§ 8-8.2-12. Additional benefits payable to retired judges and their surviving spouses or domestic partners

(a) All judges of the administrative adjudication court and all judges of the administrative

adjudication court who have been reassigned to the traffic tribunal, or their surviving spouses or domestic partners, who retire after January 1, 1970 and who receive a retirement allowance pursuant to the provisions of this title, shall, on the first day of January, next following the third anniversary of the retirement, receive a cost of living retirement adjustment in addition to his or her retirement allowance in an amount equal to three percent (3%) of the original retirement allowance. In each succeeding year thereafter during the month of January, the retirement allowance shall be increased an additional three percent (3%) of the original allowance, compounded annually from the year cost of living adjustment was first payable to be continued during the lifetime of the judge or his or her surviving spouse or domestic partner. For the purpose of such computation, credit shall be given for a full calendar year regardless of the effective date of the retirement allowance.

(b) Any judge who retired prior to January 31, 1980, shall be deemed for the purpose of this section to have retired on January 1, 1980.

(c) For judges not eligible to retire as of September 30, 2009 and not eligible upon passage of this article, and for their beneficiaries, the cost of living adjustment described in subsection (a) above shall only apply to the first thirty-five thousand dollars (\$35,000) of retirement allowance, indexed annually, and shall commence upon the third (3rd) anniversary of the date of retirement or when the retiree reaches age sixty-five (65), whichever is later. The thirty-five thousand dollar (\$35,000) limit shall increase annually by the percentage increase in the Consumer Price Index for all Urban Consumer (CPI-U) as published by the United States Department of Labor Statistics determined as of September 30 of the prior calendar year or three percent (3%), whichever is less. The first thirty-five thousand dollars (\$35,000), as indexed, of retirement allowance shall be multiplied by the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States Department of Labor Statistics determined as of September 30 of the prior calendar year or three percent (3%), whichever is less on the month following the anniversary date of each succeeding year. For judges eligible to retire as of September 30, 2009 or eligible upon passage of this article, and for their beneficiaries, the provisions of this subsection (c) shall not apply.

§ 8-8.2-13. Calculation of retirement benefits

For the purposes of the calculation of retirement benefits, in the event that any judge of the administrative adjudication court or any judge of the administrative adjudication court who has been reassigned to the traffic tribunal by this chapter participates or acquiesces in a state shutdown or in a reduced salary or salary deferral plan consistent with any plan imposed upon or agreed to by other state employees, his or her annual salary shall be calculated as if she or he had not participated or acquiesced in any shutdown or plan.

§ 8-8.2-14. Transfer of records and other property

All books, papers, records, current appropriations and relevant property necessary for the functioning of the traffic tribunal shall be transferred thereto from the administrative adjudication court.

§ 8-8.2-15. Transfer of employees

All employees of the administrative adjudication court deemed by the chief judge of the district court, with the approval of the chief justice of the supreme court, and subject to the labor laws of this state and any applicable collective bargaining agreement, to be essential to the operation of the traffic tribunal are hereby transferred to the said traffic tribunal. The chief judge of the district court shall, subject to the approval of the chief justice of the supreme court, and subject to any applicable collective bargaining agreement, assign appropriate titles and duties to said employees and shall promulgate a listing of said titles and duties within six (6) months from the effective date of this chapter [July 1, 1999].

§ 8-8.2-16. Interpretation

Whenever, in the general laws, the words administrative adjudication court shall appear, said words shall be construed and interpreted as, and to mean, the traffic tribunal. Whenever, in the general laws, the words administrator/clerk of the administrative adjudication court shall appear, said words shall be interpreted and construed as, and to mean, clerk of the traffic tribunal. Except as provided in §§ 8-8.2-6, 8-8.2-7, 8-8.2-8, 8-8.2-9, 8-8.2-11, and 8-8.2-12, whenever, in the general laws, the words judge of the administrative adjudication court shall appear, said words shall be construed and interpreted as, and to mean, judge or magistrate of the traffic tribunal.

§ 8-8.2-17. Repealed by P.L. 2007, ch. 73, art. 3, § 8, eff. August 1, 2007

§ 8-8.2-18. Custody of records

The traffic tribunal established by this chapter shall have custody of all records, books, and papers of the administrative adjudication court heretofore existing. All proceedings and processes pending in the administrative adjudication court heretofore existing and shall continue with the same force and effect in the traffic tribunal herein established; and all rights and liabilities of the parties to such actions and proceedings and processes commenced prior to July 1, 1999, including costs of appeal, shall continue in full force and effect.

§ 8-8.2-19. Severability

If any provision of this chapter or the application thereof shall for any reason be judged invalid, such a judgment shall not affect, impair or invalidate the remainder of the law, but shall be confined in its effect to the provisions or application directly involved in the controversy giving rise to the judgment.

§ 8-8.2-20. Domestic partner--Definition

For purposes of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(1) both partners were at least eighteen (18) years of age and were mentally competent to contract;

(2) neither partner was married to anyone else;

(3) partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(4) partners resided together and had resided together for at least one year at the time of death; and

(5) partners were financially interdependent as evidenced by at least two (2) of the following:

(i) domestic partnership agreement or relationship contract;

(ii) joint mortgage or joint ownership of primary residence;

(iii) two (2) of: (A) joint ownership of motor vehicle; (B) joint checking account; (C) joint credit account; (D) joint lease; and/or

(iv) the domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.