

2016 -- H 8024

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- ASSAULTS

Introduced By: Representatives Azzinaro, Corvese, Malik, Fellela, and Messier

Date Introduced: March 31, 2016

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3           **11-5-5. Assault of police officers and other officials.** -- Any person who shall make an  
4 assault or battery, or both, by knowingly and willfully either (1) striking, or (2) spraying with a  
5 noxious chemical, commonly used as a personal defense weapon, including Mace and an  
6 oleoresin capsicum product or like products, on a uniformed member of the United States Armed  
7 Forces or a uniformed member of the state police or metropolitan park police, environmental  
8 police officer, state properties patrol officer, probation and parole officers, state government case  
9 worker or investigator, judge of the supreme, superior, family, district court, traffic tribunal or  
10 municipal court, deputy sheriff, city or town police officer or firefighter, member of the capitol  
11 police, member of campus security force of state colleges and universities, member of the Rhode  
12 Island airport police department, member of the Rhode Island fugitive task force, Rhode Island  
13 public transit authority bus driver, or on-duty plainclothes member of the town, city, or state  
14 police force, investigator of the department of the attorney general appointed pursuant to § 42-9-  
15 8.1, or member of the railroad police after proper identification is displayed, or uniformed dog  
16 officer, or out-of-state police officer called into Rhode Island under a cooperative agreement to  
17 provide mutual aid at the request of the state of Rhode Island pursuant to chapter 37 of title 42, or  
18 assistant attorney general or special assistant attorney general, or employees of the department of  
19 environmental management responsible for administrative inspections or any constable

1 authorized by chapter 45-16 of the Rhode Island general law causing bodily injury while the  
2 officer or official is engaged in the performance of his or her duty, shall be deemed to have  
3 committed a felony, and shall be imprisoned not exceeding three (3) years, or fined not exceeding  
4 fifteen hundred dollars (\$1,500), or both.

5 SECTION 2. Section 11-23-1 of the General Laws in Chapter 11-23 entitled "Homicide"  
6 is hereby amended to read as follows:

7 **11-23-1. Murder. --** The unlawful killing of a human being with malice aforethought is  
8 murder. Every murder perpetrated by poison, lying in wait, or any other kind of willful,  
9 deliberate, malicious, and premeditated killing, or committed in the perpetration of, or attempt to  
10 perpetrate, any arson or any violation of § 11-4-2, 11-4-3, or 11-4-4, rape, any degree of sexual  
11 assault or child molestation, burglary or breaking and entering, robbery, kidnapping, or  
12 committed during the course of the perpetration, or attempted perpetration, of felony  
13 manufacture, sale, delivery, or other distribution of a controlled substance otherwise prohibited  
14 by the provisions of chapter 28 of title 21, or committed against any law enforcement officer in  
15 the performance of his or her duty or committed against an assistant attorney general or special  
16 assistant attorney general in the performance of his or her duty, or committed against any  
17 uniformed member of the United States Armed Forces in the performance of their duty, or  
18 perpetrated from a premeditated design unlawfully and maliciously to effect the death of any  
19 human being other than him or her who is killed, is murder in the first degree. Any other murder  
20 is murder in the second degree. The degree of murder may be charged in the indictment or  
21 information, and the jury may find the degree of murder, whether the murder is charged in the  
22 indictment or information or not, or may find the defendant guilty of a lesser offense than that  
23 charged in the indictment or information, in accordance with the provisions of § 12-17-14.

24 SECTION 3. Sections 11-47-3.2 and 11-47-20.3 of the General Laws in Chapter 11-47  
25 entitled "Weapons" are hereby amended to read as follows:

26 **11-47-3.2. Using a firearm when committing a crime of violence. --** (a) No person  
27 shall use a firearm while committing or attempting to commit a crime of violence. Every person  
28 violating the provisions of this section shall be punished: (1) for the first offense by imprisonment  
29 for ten (10) years; however, if the violation was committed by use of a machine gun as defined in  
30 section 11-47-2(6), the term of imprisonment shall be thirty (30) years; (2) for a second  
31 conviction under this section by imprisonment for twenty (20) years; however, if the violation  
32 was committed by use of a machine gun as defined in section 11-47-2(6), the term of  
33 imprisonment shall be life; and (3) for a third or subsequent conviction, the person shall be  
34 sentenced to life, or life without the possibility of parole by the sentencing judge after

1 consideration of aggravating and mitigating circumstances contained in §§ 12-19.2-3 and 12-  
2 19.2-4. Any sentence imposed upon a person pursuant to this section shall be imposed  
3 consecutively to and not concurrently with any sentence imposed for the underlying crime or  
4 attempted crime, and the person shall not be afforded the benefits of deferment of sentence or  
5 parole; provided, that unless sentenced to life without the possibility of parole pursuant to  
6 subdivision (3) of this subsection, a person sentenced to life under this section may be granted  
7 parole.

8 (b) Every person who, while committing an offense violating subsection (a) of this  
9 section, discharges a firearm shall be guilty of a felony and be imprisoned as follows:

10 (1) Ten (10) years, if no injury to any other person results from the discharge;

11 (2) Twenty (20) years, if a person other than a police officer is injured by the discharge  
12 of the firearm, or if a police officer [or a uniformed member of the United States Armed Forces](#)  
13 who is engaged in the performance of his or her duty is deliberately endangered by the person's  
14 discharge of the firearm;

15 (3) Life, if a police officer [or a uniformed member of the United States Armed Forces](#)  
16 who is engaged in the performance of his or her duty is injured by the discharge of the firearm;  
17 and

18 (4) Life, if the death or permanent incapacity of any person (other than the person  
19 convicted) results from the discharge of the firearm; provided that, involuntary manslaughter  
20 shall not be considered a "crime of violence" for the purpose of subdivision (b)(4) only.

21 (c) The penalties defined in subsection (b) of this section shall run consecutively, and not  
22 concurrently, to any other sentence imposed and, notwithstanding the provisions of chapter 8 of  
23 title 13, the person shall not be afforded the benefits of deferment of sentence or parole; provided,  
24 that a person sentenced to life under subdivision (b)(3) or (b)(4) of this section may be granted  
25 parole.

26 **11-47-20.3. Injury or death of law enforcement officer. --** Any person who uses bullets  
27 as defined in § 11-47-20.1 in the shooting of any law enforcement officer [or any uniformed](#)  
28 [member of the United States Armed Forces](#) acting in the performance of his or her official duties  
29 so as to cause injury or death to the officer [or uniformed member of the United States Armed](#)  
30 [Forces](#) shall, upon conviction, be sentenced to life imprisonment.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would recognize members of the United States Armed Forces as a group in  
2 assaults on police officers and officials. It would also be considered murder in the first degree  
3 whereby any member of the United States Armed Forces is killed in the performance of their  
4 duty. If any member of the United States Armed Forces is deliberately endangered or injured by  
5 the discharge of a firearm, the person committing the offense would be guilty of a felony. Lastly,  
6 any person who uses a bullet to cause injury or death to any member of the United States Armed  
7 Forces would be sentenced to life imprisonment.

8           This act would take effect upon passage.

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