

City of Providence

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

CHAPTER 1992-41

No. 521 **AN ORDINANCE** RELATING TO THE ESTABLISHMENT OF A
JUVENILE HEARING BOARD IN THE CITY OF PROVIDENCE, AS AMENDED

Approved November 12, 1992

Be it ordained by the City of Providence:

SECTION 1. Establishment.

There is hereby established within the City of Providence a Juvenile Hearing Board with the powers set forth in this ordinance for the purpose of hearing all cases referred to such Board by the Chief of the Police Department, with respect to persons resident in the City of Providence, under the age of eighteen (18) years, who are charged with violating the criminal laws of the State of Rhode Island of the City of Providence.

SECTION 2. Referral.

Any person who is a resident of the City of Providence and under the age of eighteen (18) years who allegedly shall have committed a juvenile offense which if committed by an adult would be a misdemeanor, may request a hearing before the Juvenile Hearing Board rather than being referred to the Family Court; provided, however, that said referral to the Juvenile Hearing Board is made with the approval of the Chief of Police of the City of Providence, and further provided, however, that referral to said Juvenile Hearing Board shall not be offered to any juvenile:

a.) who has been charged with the crime of assault or battery; or

b.) Who shall have been twice previously referred to said Board or who shall have been once previously referred to said Board and refused or failed to abide by the sanctions imposed or to make the restitution recommended by said Board; or

No.

CHAPTER

AN ORDINANCE

c.) Who at the time of commission of such juvenile offense was within the custody and control of the Family Court, not to include guardianship matters.

The Chief of Police may offer referral to the Juvenile Hearing Board to any other Juvenile offender where, in the opinion of the Chief of Police, such referral would be beneficial to the Juvenile concerned and the community at large. No referral to said Board shall be made by the Chief of Police until such person, together with his/her legal guardians, shall have, in writing, waived such person's right to a hearing in the Family Court with respect to the offense charged, shall have admitted guilt to the offense charged, and shall have agreed to abide by the decision of said Board; provided, however, that failure to comply with the decision of said Board may result in the referral of said juvenile to the Family Court by the Chief of Police.

SECTION 3. Refusal of Referral.

The Board, after investigation, may refuse to hear any case in which it appears that a juvenile was wrongfully referred in violation of Sec. 2, above. In addition, the Board may refuse to hear any case in which the juvenile refuses to supply the Board with requested information, fails to appear when requested or refuses to cooperate with the proceedings of the Board. The Board shall immediately notify the Chief of Police, in writing, of any case which it refuses to hear, and the Chief of Police shall take whatever further action that is deemed necessary, including referral to the Family Court.

SECTION 4. Legal Representation.

Any juvenile offender shall be entitled to be represented by counsel and present evidence at said hearing. Said legal representation shall be at the offender's own expense.

SECTION 5. Duties.

The Board shall hear all cases referred to it by the Chief of Police and shall recommend sanctions (other than incarceration), and shall direct restitution for any injuries resulting from the commission of such offense.

Sanctions imposed by the Board shall be for a period of time not to exceed six (6) months and may consist of, but not be limited to, public service, referral to counseling, curfews, restrictions on association with other offenders, restrictions on employment, and fines not to exceed \$100, or any combination of the above.

In those cases in which the Board shall order restitution, it shall attempt to assist the offender and his/her parents in providing a means whereby the offender may make such restitution. In ordering restitution, the Board shall take into account the offender's ability to pay and the amount of actual damages caused as a result of the commission of such offense.

In any such proceeding, the Board, prior to imposing sanctions, shall request the juvenile offender and his/her parents to agree to the sanctions imposed and to agree to the amount of restitution and manner of making the same. In imposing sanctions or ordering restitution, the Board shall consider the nature of the offense, the prior record of the offender, and any mitigating circumstances involved.

The Board shall have the right to levy hearing costs.

SECTION 6. Meetings.

The Board shall meet not less than once each month. It shall give written notice of the matters to be heard before it to the Chief of Police, the Juvenile Officer, and the juvenile offender and his/her parents, not less than ten (10) days prior to the date of the hearing. Said notice shall set forth the nature of the offense, the time and place of the hearing, and the offender's right to be represented by counsel at the offender's expense.

A majority of the members of the Board shall constitute a quorum, and its proceedings shall be closed to the public. The Board shall elect one (1) from its members as its Chairperson and one (1) as its Vice-Chairperson. In the absence of the Chairperson, the Vice-Chairperson shall be the presiding officer. A majority of the members present shall be required to take any action. The Board shall have the power from time to time to draft rules governing its proceedings or to amend or repeal any rules theretofore adopted, with the approval of the Chief of Police, and not inconsistent with this article.

SECTION 7. Composition.

The membership of the Board shall consist of five (5) persons and two (2) alternates over the age of eighteen (18) years, to be appointed by the City Council, all of whom shall have been a resident for at least three (3) years within the City, and none of whom shall be attorneys admitted to practice before the Supreme Court of the State of Rhode Island, and none shall be an elected official in any capacity or belong to or be appointed to any partisan organization in any city or town.

The City Council shall appoint one (1) member whose term shall expire on December 31, 1993, and thereafter until their successors are appointed and qualified. The two (2) alternates shall be appointed for one (1) year terms to expire on December 31. During the month of November and annually thereafter, the City Council shall appoint a member or members to succeed the member or members whose terms will then next expire, to serve for a term of three (3) years, commencing on the first day of January, and thereafter until their successors are appointed and qualified. In the event of a vacancy occurring in the office of a member by death, resignation or otherwise, such vacancy shall be filled in like manner as the original appointment, but only for the remainder of the term of the former member. No member of the Board shall be entitled to receive any compensation by reason of his or her service on the Board. An attorney may be appointed to the Board as an ex-officio member by the Chief Judge of Family Courts.

The Composition of the Board shall consist of citizens of Providence who have background in and of the related fields of education, probation and parole, human services community youth programs, members of the clergy, former law enforcement or judicial officials, or any citizen who the Council deems has the credentials that would be an asset to the Board.

SECTION 8. Applicability.

This article shall apply to all juveniles alleged to have committed an offense after December 31, 1992.

SECTION 9. Severability.

The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases,

clauses, sentences, paragraphs and sections of the Ordinance, since the same would have been enacted by the city council without the incorporation in this Ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

ORDINANCE
 IS CORRECTLY
 RECORDED
 IN CITY CLERK'S
 OFFICE

SECTION 10. This Ordinance shall take effect upon its passage

IN CITY COUNCIL

OCT 15 1992

FIRST READING
READ AND PASSED

Michael L. Clement
CLERK

IN CITY
COUNCIL

NOV 5 1992

FINAL READING
READ AND PASSED

James J. Petrosinelli
PRESIDENT
Michael L. Clement
CLERK

APPROVED

NOV 12 1992

Deane A. Cress
MAYOR

CHAPTER

AN ORDINANCE RELATING TO THE
ESTABLISHMENT OF A JUVENILE
HEARING BOARD IN THE CITY OF
PROVIDENCE, AS AMENDED

RECEIVED
CITY CLERK
OCT 1 1992

IN CITY COUNCIL

OCT 1, 1992

FIRST READING

REFERRED TO COMMITTEE ON
ORDINANCES

Richard L. Christ CLERK

THE COMMITTEE ON
ORDINANCES

Approves Passage of
The Within Ordinance, AS AMENDED

Richard L. Christ
Chairman
Clerk