

2024 -- S 3108

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- DOMESTIC VIOLENCE PREVENTION ACT

Introduced By: Senator Matthew L. LaMountain

Date Introduced: May 29, 2024

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 12-29-5 and 12-29-5.2 of the General Laws in Chapter 12-29 entitled
2 "Domestic Violence Prevention Act" are hereby amended to read as follows:

3 **12-29-5. Disposition of domestic violence cases.**

4 (a) Every person convicted of, or placed on probation for, a crime involving domestic
5 violence or whose case is filed pursuant to § 12-10-12 where the defendant pleads nolo contendere,
6 in addition to any other sentence imposed or counseling ordered, shall be ordered by the judge to
7 attend, ~~at his or her own expense,~~ a batterer's intervention program appropriate to address his or
8 her violent behavior; provided, however, that the court may permit a servicemember or veteran to
9 complete any court-approved counseling program administered or approved by the Veterans'
10 Administration. This order shall be included in the conditions of probation. Failure of the defendant
11 to comply with the order shall be a basis for violating probation and/or the provisions of § 12-10-
12 12. This provision shall not be suspended or waived by the court.

13 (b) Every person convicted of, or placed on probation for, a crime involving domestic
14 violence as enumerated in § 12-29-2, or whose case is filed pursuant to § 12-10-12 where the
15 defendant pleads guilty or nolo contendere, in addition to other court costs or assessments imposed,
16 shall be ordered to pay a one hundred twenty-five dollar (\$125) assessment. Eighty percent (80%)
17 of the assessment collected pursuant to this section shall be provided to the Rhode Island Coalition
18 Against Domestic Violence for programs to assist victims of domestic violence and twenty percent
19 (20%) of the assessment shall be deposited as general revenue.

1 (c)(1) Every person convicted of an offense punishable as a misdemeanor involving
2 domestic violence as defined in § 12-29-2 shall:

3 (i) For a second violation, be imprisoned for a term of not less than ten (10) days and not
4 more than one year.

5 (ii) For a third and subsequent violation, be deemed guilty of a felony and be imprisoned
6 for a term of not less than one year and not more than ten (10) years.

7 (2) No jail sentence provided for under this section can be suspended.

8 (3) Nothing in this subsection shall be construed as limiting the discretion of the judges to
9 impose additional sanctions authorized in sentencing.

10 (d) The court shall determine, for every person who pleads nolo contendere to, or is
11 convicted of, an offense involving domestic violence as enumerated in § 12-29-2, whether, as a
12 result of the plea or conviction, the defendant is prohibited under § 11-47-5(a)(3) or § 11-47-
13 5(a)(4) from purchasing, owning, carrying, transporting, or having in his or her possession any
14 firearm.

15 (1) Prior to the entry of a plea of nolo contendere to an offense involving domestic violence
16 as enumerated in § 12-29-2, the court shall advise the defendant that a plea of nolo contendere has
17 the same legal effect and collateral consequences as a plea of guilty.

18 (2) Prior to the entry of a plea of nolo contendere to an offense punishable as a felony
19 involving domestic violence as enumerated in § 12-29-2, or an offense enumerated in § 11-47-
20 5(a)(4), the court shall advise the defendant that, in addition to any other sentence or penalty, the
21 defendant shall, as result of the plea, be prohibited from purchasing, owning, carrying, transporting,
22 or having in their possession any firearm under § 11-47-5.

23 (3) The person required to surrender his or her firearms pursuant to this section shall not
24 be responsible for any costs of storage of any firearms surrendered pursuant to this section.

25 (e) For the purposes of this section, “batterers intervention program” means a program that
26 is certified by the batterers intervention program standards oversight committee according to
27 minimum standards, pursuant to §§ 12-29-5.1, 12-29-5.2, and 12-29-5.3.

28 (f) For purposes of this section, “servicemember” means a person who is presently serving
29 in the armed forces of the United States, including the Coast Guard, a reserve component thereof,
30 or the National Guard. “Veteran” means a person who has served in the armed forces, including
31 the Coast Guard of the United States, a reserve component thereof, or the National Guard, and has
32 been discharged under other than dishonorable conditions.

33 (g) The court shall indicate on every record of conviction or a plea of nolo contendere for
34 an offense punishable as a felony involving domestic violence, as defined in § 12-29-2, that the

1 defendant is prohibited under §§ 11-47-5 and 11-47-5.3 from purchasing, owning, carrying,
2 transporting, or having in their possession, any firearm(s). The court shall inform the defendant of
3 their prohibited status and shall order the defendant to surrender any firearm(s) in their ownership,
4 possession, care, custody or control in accordance with § 11-47-5.3.

5 (h) The court shall indicate on every record of conviction or a plea of nolo contendere for
6 an offense enumerated in § 11-47-5(a)(4) that the defendant is prohibited under §§ 11-47-5 and
7 11-47-5.4 from purchasing, owning, carrying, transporting, or having in their possession, any
8 firearm(s). The court shall inform the defendant of their prohibited status, shall order the defendant
9 to surrender any firearm(s) in their ownership, possession, care, custody or control, and shall ensure
10 that surrender is made in accordance with § 11-47-5.4.

11 (i) No proceeds shall be provided to any person if the firearm(s) is destroyed pursuant to
12 this section.

13 (j) Any firearm(s) used in the commission of the offense leading to the conviction pursuant
14 to this section shall be forfeited to the state upon conviction.

15 **12-29-5.2. Duties and responsibilities of committee.**

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

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

22 (i) Batterers intervention programs shall be conducted using evidence-informed
23 programming and dosage levels designed to reduce the risk of future violent behavior;

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

26 (iii) Batterers intervention programs ~~shall~~ may require that all mandated batterers pay fees
27 for the programs in accordance with the provisions of § 12-29-5; provided, that programs shall
28 accommodate varying levels of ability to pay by means of sliding-fee scales and may elect to offer
29 alternatives to payment in the form of community restitution and/or deferred payment for a portion
30 of the fees; and

31 (iv) Provisions shall be established defining the circumstances under which defendants who
32 have attended a batterers program while incarcerated, and/or a batterers program in another
33 jurisdiction that is certified under that jurisdiction's standards or not subject to standards in that
34 jurisdiction, may request that their documented participation in such program be accepted in

1 satisfaction of some portion of their obligation to attend ~~forty (40) hours of~~ a certified batterers
2 intervention program as described in subsection (a)(1)(ii).

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

5 (3) Certify those batterers intervention programs that are in compliance with the standards
6 established pursuant to subsection (a)(1); and

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

9 (b) For purposes of this chapter, “post-enrollment certification applications” means those
10 applications made to the committee by a batterer mandated to attend a certified batterers
11 intervention program in accordance with § 12-29-5 who has, prior to adjudication, enrolled in a
12 program not certified by the committee. The application shall include supporting documentation
13 from the batterers intervention program and a request that participation in the batterers intervention
14 program be accepted in lieu of the equivalent number of hours of a certified batterers intervention
15 program. The committee shall act upon a post-enrollment certification application within thirty (30)
16 days of receipt of the application.

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

24 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 -- DOMESTIC VIOLENCE PREVENTION ACT

1 This act would permit the court to determine the number of hours a person would have to
2 complete of a batters intervention program and would give the court discretion as to whether that
3 person would be personally financially responsible for the costs thereof.

4 This act would take effect upon passage.

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