

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO DOMESTIC RELATIONS -- DOMESTIC ABUSE PREVENTION

Introduced By: Senators McCaffrey, Lombardi, Archambault, Conley, and Nesselbush

Date Introduced: March 15, 2017

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 15-15-1 and 15-15-3 of the General Laws in Chapter 15-15
2 entitled "Domestic Abuse Prevention" are hereby amended to read as follows:

3 **15-15-1. Definitions.**

4 The following words as used in this chapter have the following meanings:

5 ~~(1) "Courts" means the family court.~~

6 ~~(2) "Domestic abuse" means the occurrence of one or more of the following acts between~~
7 ~~present or former family members, parents, stepparents, or persons who are or have been in a~~
8 ~~substantive dating or engagement relationship within the past one year in which at least one of the~~
9 ~~persons is a minor:~~

10 ~~(i) Attempting to cause or causing physical harm;~~

11 ~~(ii) Placing another in fear of imminent serious physical harm; or~~

12 ~~(iii) Causing another to engage involuntarily in sexual relations by force, threat of force,~~
13 ~~or duress.~~

14 ~~(iv) Stalking or cyberstalking.~~

15 ~~(3) "Parents" mean persons who together are the legal parents of one or more children,~~
16 ~~regardless of their marital status or whether they have lived together at any time.~~

17 ~~(4) "Present or former family member" means the spouse, former spouse, minor children,~~
18 ~~stepchildren, or persons who are related by blood or marriage.~~

19 ~~(5) "Substantive dating" or "engagement relationship" means a significant and~~

1 ~~personal/intimate relationship which shall be adjudged by the court's consideration by the~~
2 ~~following factors:~~

3 ~~(i) The length of time of the relationship;~~

4 ~~(ii) The type of relationship; and~~

5 ~~(iii) The frequency of interaction between the parties.~~

6 ~~(6) "Stalking" means harassing another person or willfully, maliciously and repeatedly~~
7 ~~following another person with the intent to place that person in reasonable fear of bodily injury;~~

8 ~~(7) "Cyberstalking" means transmitting any communication by computer to any person or~~
9 ~~causing any person to be contacted for the sole purpose of harassing that person or his or her~~
10 ~~family;~~

11 ~~(8) "Harassing" means following a knowing and willful course of conduct directed at a~~
12 ~~specific person with the intent to seriously alarm, annoy, or bother the person, and which serves~~
13 ~~no legitimate purpose. The course of conduct must be such as would cause a reasonable person to~~
14 ~~suffer substantial emotional distress, or be in fear of bodily injury;~~

15 ~~(9) "Course of conduct" means a pattern of conduct composed of a series of acts over a~~
16 ~~period of time, evidencing a continuity of purpose. Constitutionally protected activity is not~~
17 ~~included within the meaning of "course of conduct."~~

18 (1) "Commercial sex act" means any sex act or sexually explicit performance on account
19 of which anything of value is given, promised to, or received, directly or indirectly, by any
20 person.

21 (2) "Course of conduct" means a pattern of conduct composed of a series of acts over a
22 period of time, evidencing a continuity of purpose. Constitutionally protected activity is not
23 included within the meaning of "course of conduct."

24 (3) "Courts" means the family court.

25 (4) "Cyberstalking" means transmitting any communication by computer to any person or
26 causing any person to be contacted for the sole purpose of harassing that person or their family.

27 (5) "Domestic abuse" means the occurrence of one or more of the following acts between
28 present or former family members, parents, step-parents, or persons who are or have been in a
29 substantive dating or engagement relationship within the past one year in which at least one of the
30 persons is a minor:

31 (i) Attempting to cause or causing physical harm;

32 (ii) Placing another in fear of imminent serious physical harm;

33 (iii) Causing another to engage involuntarily in sexual relations by force, threat of force,
34 or duress;

1 (iv) Stalking or cyberstalking; or

2 (v) The occurrence of any of the following acts by any person who knowingly or
3 willfully encourages, aids or coerces any child under the age of eighteen (18) years:

4 (A) Recruiting, employing, enticing, soliciting, isolating, harboring, transporting,
5 providing, persuading, obtaining, or maintaining, or so attempts, any minor for the purposes of
6 commercial sex acts or sexually explicit performances; or selling or purchasing a minor for the
7 purposes of commercial sex acts.

8 (6) "Harassing" means following a knowing and willful course of conduct directed at a
9 specific person with the intent to seriously alarm, annoy, or bother the person, and which serves
10 no legitimate purpose. The course of conduct must be such as would cause a reasonable person to
11 suffer substantial emotional distress, or be in fear of bodily injury.

12 (7) "Parents" mean persons who together are the legal parents of one or more children,
13 regardless of their marital status or whether they have lived together at any time.

14 (8) "Present or former family member" means the spouse, former spouse, minor children,
15 step-children, or persons who are related by blood or marriage.

16 (9) "Sexually-explicit performance" means an act or show, intended to arouse, satisfy the
17 sexual desires of, or appeal to the prurient interests of patrons and viewers, whether public or
18 private, live, photographed, recorded, or videotaped.

19 (10) "Stalking" means harassing another person or willfully, maliciously and repeatedly
20 following another person with the intent to place that person in reasonable fear of bodily injury.

21 (11) "Substantive dating" or "engagement relationship" means a significant and
22 personal/intimate relationship which shall be adjudged by the court's consideration by the
23 following factors:

24 (i) The length of time of the relationship;

25 (ii) The type of relationship; and

26 (iii) The frequency of interaction between the parties.

27 **15-15-3. Protective orders -- Penalty -- Jurisdiction.**

28 (a) A person, or a parent, custodian or legal guardian on behalf of a minor child or the
29 director of DCYF or their designee for a child in the custody of DCYF, suffering from domestic
30 abuse may file a complaint in the family court requesting any order which will protect and
31 support her or him from abuse including, but not limited, to the following:

32 (1) Ordering that the defendant be restrained and enjoined from contacting, assaulting,
33 molesting, or interfering with the plaintiff at home, on the street, or elsewhere, whether the
34 defendant is an adult or a minor;

1 (2) Ordering the defendant to vacate the household immediately;
2 (3) Awarding the plaintiff custody of the minor children of the parties, if any;
3 (4) After notice to the respondent and a hearing, ordering either party to make payments
4 for the support of a minor child or children of the parties as required by law for a period not to
5 exceed ninety (90) days, unless the child support order is for a child or children receiving public
6 assistance pursuant to chapter 5.1 of title 40. In these cases, legal counsel for the division of
7 taxation, child support enforcement, shall be notified as a party in interest to appear for the
8 purpose of establishing a child support order under a new or existing docket number previously
9 assigned to the parties and not under the protective docket number. The child support order shall
10 remain in effect until the court modifies or suspends the order.

11 (5) After notice to the respondent and a hearing, the court in addition to any other
12 restrictions, may order the defendant to surrender physical possession of all firearms in his or her
13 possession, care, custody or control.

14 (b) Any individual who accepts physical possession of a firearm pursuant to this section
15 is prohibited from returning any firearm to any defendant under a restraining order during the
16 existence of the restraining order. Violation of this provision shall subject both the defendant and
17 the individual responsible for the return of the firearm to the defendant, to being found in
18 contempt of court.

19 (c) The Family Court shall provide a notice on all forms requesting a protective order
20 that, at the hearing for a protective order, the defendant may be ordered to surrender physical
21 possession or control of any firearms and not to purchase or receive or attempt to purchase or
22 receive any firearms for a period not to exceed the duration of the restraining order.

23 (d) If the defendant is present in court at a duly noticed hearing, the court may order the
24 defendant to physically surrender any firearm in that person's immediate possession or control, or
25 subject to that person's immediate physical possession or control, within twenty-four (24) hours
26 of the order, by surrendering the possession of the firearm(s) to the control of any individual not
27 legally prohibited from possessing a firearm(s) who is not related to the defendant by blood,
28 marriage, or relationship as defined by § 15-15-1(3), (4), or (5), of the Rhode Island general laws,
29 or by surrendering any firearm(s) to the Rhode Island State Police or local police department, or
30 by surrendering the firearm(s) to a licensed gun dealer. If the defendant is not present at the
31 hearing, the defendant shall surrender possession of the firearm(s) within forty-eight (48) hours
32 after being served with the order. A person ordered to surrender possession of any firearm(s)
33 pursuant to this subsection shall file with the court a receipt showing the firearm(s) was either
34 legally transferred to an individual not legally prohibited from possessing a firearm who is not

1 related to the defendant by blood, marriage, or relationship as defined by § 15-15-1(3), (4), or (5)
2 of the Rhode Island general laws or surrender to a licensed gun dealer within seventy-two (72)
3 hours after receiving the order. Any defendant transporting a firearm to surrender in accordance
4 with the above shall not be liable to prosecution under § 11-47-8.

5 (e) Nothing in this section shall limit a defendant's right under existing law to petition the
6 court at a later date for modification of the order.

7 (f) The prohibition against possessing a firearm(s) due solely to the existence of a
8 domestic violence restraining order issued under this section shall not apply with respect to sworn
9 peace officers as defined in § 12-7-21 and active members of military service including members
10 of the reserve components thereof, who are required by law or departmental policy to carry
11 departmental firearms while on duty or any person who is required by their employment to carry
12 a firearm in the performance of their duties. Any individual exempted pursuant to this exception
13 may possess a firearm only during the course of their employment. Any firearm required for
14 employment must be stored at the place of employment when not being possessed for
15 employment use; all other firearm(s) must be surrendered in accordance with § 15-15-3.

16 (g) Upon motion by the plaintiff, his or her address shall be released only at the discretion
17 of the family court judge.

18 (h) (1) Any violation of the protective orders in subsection (a) of this section shall subject
19 the defendant to being found in contempt of court.

20 (2) The contempt order shall not be exclusive and shall not preclude any other available
21 civil or criminal remedies. Any relief granted by the court shall be for a fixed period of time not
22 to exceed three (3) years, at the expiration of which time the court may extend any order, upon
23 motion of the plaintiff, for any additional time, that it deems necessary to protect the plaintiff
24 from abuse. The court may modify its order at any time upon motion of either party.

25 (i) (1) Any violation of a protective order under this chapter of which the defendant has
26 actual notice shall be a misdemeanor which shall be punished by a fine of no more than one
27 thousand dollars (\$1,000) or by imprisonment for not more than one year, or both.

28 (2) The penalties for violation of this section shall also include the penalties as provided
29 by § 12-29-5.

30 (j) Actual notice means that the defendant has received a copy of the order by service or
31 by being handed a copy of the order by a police officer pursuant to § 15-15-5(d).

32 (k) (1) The district court shall have criminal jurisdiction over all adult violations of this
33 chapter.

34 (2) The family court shall have jurisdiction over all juvenile violations of this chapter.

1 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 DOMESTIC RELATIONS -- DOMESTIC ABUSE PREVENTION

1 This act would amend the definition of "domestic abuse" to include acts by a person who
2 knowingly or willfully encourages, aids or coerces any child under the age of eighteen (18) years
3 to engage in commercial sex acts. The act would also provide several additional definitions
4 pertaining to domestic abuse prevention. The act would also allow a parent, guardian or legal
5 custodian to seek a protective order on behalf of a minor for domestic abuse.

6 This act would take effect upon passage.

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