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LC001820/SUB A/3
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO DOMESTIC RELATIONS

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:

7 the occurrence of one or more of the following acts between present or former family
8 members, parents, stepparents, or persons who are or have been in a substantive dating or
9 engagement relationship within the past one year in which at least one of the 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; ~~or~~ or

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) "Sexual exploitation" means the occurrence of any of the following acts by any

1 person who knowingly or willfully encourages, aids or coerces any child under the age of
2 eighteen (18) years:

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

7 (A) "Commercial sex act" means any sex act or sexually explicit performance on account
8 of which anything of value is given, promised to, or received, directly or indirectly, by any
9 person.

10 (B) "Sexually-explicit performance" means an act or show, intended to arouse, satisfy the
11 sexual desires of, or appeal to the prurient interests of patrons or viewers, whether public or
12 private, live, photographed, recorded, or videotaped.

13 ~~(5)~~(6) "Substantive dating" or "engagement relationship" means a significant and
14 personal/intimate relationship which shall be adjudged by the court's consideration by the
15 following factors:

- 16 (i) The length of time of the relationship;
- 17 (ii) The type of relationship; and
- 18 (iii) The frequency of interaction between the parties.

19 ~~(6)~~(7) "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 ~~(7)~~(8) "Cyberstalking" means transmitting any communication by computer to any person
22 or causing any person to be contacted for the sole purpose of harassing that person or his or her
23 family;

24 ~~(8)~~(9) "Harassing" means following a knowing and willful course of conduct directed at a
25 specific person with the intent to seriously alarm, annoy, or bother the person, and which serves
26 no legitimate purpose. The course of conduct must be such as would cause a reasonable person to
27 suffer substantial emotional distress, or be in fear of bodily injury;

28 ~~(9)~~(10) "Course of conduct" means a pattern of conduct composed of a series of acts over
29 a period of time, evidencing a continuity of purpose. Constitutionally protected activity is not
30 included within the meaning of "course of conduct."

31 **15-15-3. Protective orders -- Penalty -- Jurisdiction.**

32 (a) A person, or a parent, custodian or legal guardian on behalf of a minor child or the
33 director of department of children, youth and families ("DCYF") or their designee for a child in
34 the custody of DCYF, pursuant to §§40-11-7 and 40-11-7.1, suffering from domestic abuse or

1 [sexual exploitation as defined in §15-15-1](#), may file a complaint in the family court requesting
2 any order which will protect and support her or him from abuse [or sexual exploitation](#) including,
3 but not limited, to the following:

4 (1) Ordering that the defendant be restrained and enjoined from contacting, assaulting,
5 molesting, [sexually exploiting](#), or interfering with the plaintiff at home, on the street, or
6 elsewhere, whether the defendant is an adult or a minor;

7 (2) Ordering the defendant to vacate the household immediately;

8 (3) Awarding the plaintiff custody of the minor children of the parties, if any;

9 (4) After notice to the respondent and a hearing, ordering either party to make payments
10 for the support of a minor child or children of the parties as required by law for a period not to
11 exceed ninety (90) days, unless the child support order is for a child or children receiving public
12 assistance pursuant to chapter 5.1 of title 40. In these cases, legal counsel for the division of
13 taxation, child support enforcement, shall be notified as a party in interest to appear for the
14 purpose of establishing a child support order under a new or existing docket number previously
15 assigned to the parties and not under the protective docket number. The child support order shall
16 remain in effect until the court modifies or suspends the order.

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

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

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

29 (d) If the defendant is present in court at a duly noticed hearing, the court may order the
30 defendant to physically surrender any firearm in that person's immediate possession or control, or
31 subject to that person's immediate physical possession or control, within twenty-four (24) hours
32 of the order, by surrendering the possession of the firearm(s) to the control of any individual not
33 legally prohibited from possessing a firearm(s) who is not related to the defendant by blood,
34 marriage, or relationship as defined by § 15-15-1(3), (4), or (5), of the Rhode Island general laws,

1 or by surrendering any firearm(s) to the Rhode Island State Police or local police department, or
2 by surrendering the firearm(s) to a licensed gun dealer. If the defendant is not present at the
3 hearing, the defendant shall surrender possession of the firearm(s) within forty-eight (48) hours
4 after being served with the order. A person ordered to surrender possession of any firearm(s)
5 pursuant to this subsection shall file with the court a receipt showing the firearm(s) was either
6 legally transferred to an individual not legally prohibited from possessing a firearm who is not
7 related to the defendant by blood, marriage, or relationship as defined by § 15-15-1(3), (4), or (5)
8 of the Rhode Island general laws or surrender to a licensed gun dealer within seventy-two (72)
9 hours after receiving the order. Any defendant transporting a firearm to surrender in accordance
10 with the above shall not be liable to prosecution under § 11-47-8.

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

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

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

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

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

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

34 (2) The penalties for violation of this section shall also include the penalties as provided

1 by § 12-29-5.

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

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

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

7 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

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

6 This act would take effect upon passage.

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