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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO DOMESTIC RELATIONS -- DOMESTIC ABUSE PREVENTION

Introduced By: Representatives Lombardi, Hull, Walsh, Fogarty, and Lyle

Date Introduced: January 09, 2020

Referred To: House 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) "Course of conduct" means a pattern of conduct composed of a series of acts over a  
6 period of time, evidencing a continuity of purpose. Constitutionally protected activity is not  
7 included within the meaning of "course of conduct."

8 (2) "Courts" means the family court.

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

12 (4) "Domestic abuse" means:

13 The occurrence of one or more of the following acts between present or former family  
14 members, parents, stepparents, a plaintiff parent's minor child(ren) to which the defendant is not  
15 a blood relative or relative by marriage, or persons who are or have been in a substantive dating  
16 or engagement relationship within the past one year in which at least one of the persons is a  
17 minor:

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

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

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

3 (iv) Stalking or cyberstalking.

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

8 (6) "Household pet" means a domesticated or tamed animal kept for companionship or  
9 pleasure.

10 ~~(6)~~(7) "Parents" mean persons who together are the legal parents of one or more children,  
11 regardless of their marital status or whether they have lived together at any time.

12 ~~(7)~~(8) "Present or former family member" means the spouse, former spouse, minor  
13 children, stepchildren, a plaintiff parent's minor child(ren) to which the defendant is not a blood  
14 relative or relative by marriage, minor children of substantive dating partners, or persons who are  
15 related by blood or marriage.

16 ~~(8)~~(9) "Sexual exploitation" means the occurrence of any of the following acts by any  
17 person who knowingly or willfully encourages, aids, or coerces any child under the age of  
18 eighteen (18) years:

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

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

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

29 ~~(9)~~(10) "Stalking" means harassing another person or willfully, maliciously, and  
30 repeatedly following another person with the intent to place that person in reasonable fear of  
31 bodily injury.

32 ~~(10)~~(11) "Substantive dating" or "engagement relationship" means a significant and  
33 personal/intimate relationship that shall be adjudged by the court's consideration of the following  
34 factors:

- 1 (i) The length of time of the relationship;
- 2 (ii) The type of relationship; and
- 3 (iii) The frequency of interaction between the parties.

4 **15-15-3. Protective orders -- Penalty -- Jurisdiction.**

5 (a) A person, or a parent, custodian, or legal guardian on behalf of a minor child or the  
6 director of the department of children, youth and families ("DCYF") or its designee for a child in  
7 the custody of DCYF, pursuant to §§ 40-11-7 and 40-11-7.1, suffering from domestic abuse or  
8 sexual exploitation as defined in § 15-15-1, may file a complaint in the family court requesting  
9 any order that will protect and support her or him from abuse or sexual exploitation, including,  
10 but not limited to, the following:

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

14 (2) Ordering the defendant to vacate the household immediately, and further providing in  
15 the order for the safety and welfare of all household animals and pets;

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

17 (4) Awarding the plaintiff custody of the household pet(s), if any, including the  
18 enforcement remedy of a restraining order or other injunctive relief if necessary;

19 ~~(4)~~(5) Ordering the defendant to surrender physical possession of all firearms in his or her  
20 possession, care, custody, or control and shall further order a person restrained not to purchase or  
21 receive, or attempt to purchase or receive, any firearms while the protective order is in effect. The  
22 defendant shall surrender said firearms within twenty-four (24) hours of notice of the protective  
23 order to the Rhode Island state police or local police department or to a federally licensed  
24 firearms dealer.

25 (i) A person ordered to surrender possession of any firearm(s) pursuant to this section  
26 shall, within seventy-two (72) hours after being served with the order, either:

27 (A) File with the court a receipt showing the firearm(s) was physically surrendered to the  
28 Rhode Island state police or local police department, or to a federally licensed firearms dealer; or

29 (B) Attest to the court that, at the time of the order, the person had no firearms in his or  
30 her immediate physical possession or control, or subject to their immediate physical possession or  
31 control, and that the person, at the time of the attestation, has no firearms in their immediate  
32 physical possession or control, or subject to their immediate physical possession or control.

33 (ii) If a person restrained under this section transfers a firearm(s) to a federally licensed  
34 firearms dealer pursuant to this section, the person restrained under this section may instruct the

1 federally licensed firearms dealer to sell the firearm(s) or to transfer ownership, in accordance  
2 with state and federal law, to a qualified named individual who is not a member of the person's  
3 dwelling house, who is not related to the person by blood, marriage, or relationship as defined by  
4 § 15-15-1(7), and who is not prohibited from possessing firearms under state or federal law. The  
5 owner of any firearm(s) sold shall receive any financial value received from its sale, less the cost  
6 associated with taking possession of, storing, and transferring of the firearm(s).

7 (iii) Every individual to whom ownership of a firearm(s) is transferred pursuant to this  
8 subsection shall be prohibited from transferring or returning any firearm(s) to the person  
9 restrained under this section while the protective order remains in effect and shall be informed of  
10 this prohibition, Any knowing violation of this subsection is a felony that shall be punishable by a  
11 fine of not more than one thousand dollars (\$1,000), or by imprisonment for a term of not less  
12 than one year and not more than five (5) years, or both.

13 (iv) An individual to whom ownership of a firearm(s) is transferred pursuant to this  
14 subsection shall return a firearm(s) to the person formerly restrained under this section only if the  
15 person formerly restrained under this section provides documentation issued by a court indicating  
16 that the restraining order issued pursuant to this section that prohibited the person from  
17 purchasing, carrying, transporting, or possessing firearms has expired and has not been extended;

18 ~~(5)~~(6) After notice to the respondent and a hearing, ordering either party to make  
19 payments for the support of a minor child or children of the parties as required by law for a period  
20 not to exceed ninety (90) days, unless the child support order is for a child or children receiving  
21 public assistance pursuant to chapter 5.1 of title 40. In these cases, legal counsel for the division  
22 of taxation, child support enforcement, shall be notified as a party in interest to appear for the  
23 purpose of establishing a child support order under a new or existing docket number previously  
24 assigned to the parties and not under the protective docket number. The child support order shall  
25 remain in effect until the court modifies or suspends the order.

26 (b) After notice to the respondent and a hearing, which shall be held within fifteen (15)  
27 days of surrendering said firearms, the court, in addition to any other restrictions, may, for any  
28 protective order issued after or renewed on or after July 1, 2017, continue the order of surrender,  
29 and shall further order a person restrained under this section not to purchase or receive, or attempt  
30 to purchase or receive, any firearms while the protective order is in effect.

31 (c) The family court shall provide a notice on all forms requesting a protective order that  
32 a person restrained under this section shall be ordered pursuant to § 11-47-5 to surrender  
33 possession of any firearms while the protective order is in effect. The form shall further provide  
34 that any person who has surrendered his or her firearms shall be afforded a hearing within fifteen

1 (15) days of surrendering his or her firearms.

2 (d) Any firearm surrendered in accordance with this section to the Rhode Island state  
3 police or local police department shall be returned to the person formerly restrained under this  
4 section upon his or her request when:

5 (1) The person formerly restrained under this section produces documentation issued by a  
6 court indicating that the restraining order issued pursuant to this section that prohibited the person  
7 from purchasing, carrying, transporting, or possessing firearms has expired and has not been  
8 extended; and

9 (2) The law enforcement agency in possession of the firearms determined that the person  
10 formerly restrained under this section is not otherwise prohibited from possessing a firearm under  
11 state or federal law.

12 (3) The person required to surrender their firearms pursuant to this section shall not be  
13 responsible for any costs of storage of any firearms surrendered pursuant to this section.

14 (e) The Rhode Island state police are authorized to develop rules and procedures  
15 pertaining to the storage and return of firearms surrendered to the Rhode Island state police or  
16 local police departments pursuant to this section. The Rhode Island state police may consult with  
17 the Rhode Island Police Chiefs' Association in developing rules and procedures.

18 (f) Nothing in this section shall be construed to limit, expand, or in any way modify  
19 orders issued under § 12-29-7 or § 15-5-19.

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

22 (h) The court shall immediately notify the person suffering from domestic abuse whose  
23 complaint gave rise to the protective order, and the law enforcement agency where the person  
24 restrained under this section resides, of the hearing.

25 (i) The person suffering from domestic abuse, local law enforcement, and the person  
26 restrained under this section shall all have an opportunity to be present and to testify when the  
27 court considers the petition.

28 (j) At the hearing, the person restrained under this section shall have the burden of  
29 showing, by clear and convincing evidence, that, if his or her firearm rights were restored, he or  
30 she would not pose a danger to the person suffering from domestic abuse or to any other person.

31 (1) In determining whether to restore a person's firearm rights, the court shall examine all  
32 relevant evidence, including, but not limited to: the complaint seeking a protective order; the  
33 criminal record of the person restrained under this section; the mental health history of the person  
34 restrained under this section; any evidence that the person restrained under this section has, since

1 being served with the order, engaged in violent or threatening behavior against the person  
2 suffering from domestic abuse or any other person.

3 (2) If the court determines, after a review of all relevant evidence and after all parties  
4 have had an opportunity to be heard, that the person restrained under this section would not pose  
5 a danger to the person suffering from domestic abuse or to any other person if his or her firearm  
6 rights were restored, then the court may grant the petition and modify the protective order and lift  
7 the firearm prohibition.

8 (3) If the court lifts a person's firearms prohibition pursuant to this subsection, the court  
9 shall issue the person written notice that he or she is no longer prohibited under this section from  
10 purchasing or possessing firearms while the protective order is in effect.

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

20 (l) Upon motion by the plaintiff, his or her address shall be released only at the discretion  
21 of the family court judge.

22 (m)(1) Any violation of the protective orders in subsection (a) of this section shall subject  
23 the defendant to being found in contempt of court.

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

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

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

34 (o) Actual notice means that the defendant has received a copy of the order by service or

1 by being handed a copy of the order by a police officer pursuant to § 15-15-5(d).

2 (p)(1) The district court shall have criminal jurisdiction over all adult violations of this  
3 chapter.

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

5 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

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- 1           This act would permit the family court to award custody of household pets to the plaintiff
- 2   in a domestic abuse complaint.
- 3           This act would take effect upon passage.

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