

2019 -- S 0321 SUBSTITUTE A

=====
LC001820/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

—————
A N A C T

RELATING TO DOMESTIC RELATIONS - DOMESTIC ABUSE PREVENTION

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 13, 2019

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 15-15-1, 15-15-5 and 15-15-6 of the General Laws in Chapter 15-
2 15 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 a](#)
15 [blood relative or relative by marriage](#), or persons who are or have been in a substantive dating or
16 engagement relationship within the past one year in which at least one of the persons is a minor:

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

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

19 (iii) Causing another to engage involuntarily in sexual relations by force, threat of force,

1 or duress; or

2 (iv) Stalking or cyberstalking.

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

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

9 (7) "Present or former family member" means the spouse, former spouse, minor children,
10 stepchildren, [a plaintiff parent's minor child\(ren\) to which the defendant is not a blood relative or](#)
11 [relative by marriage, minor children of substantive dating partners,](#) or persons who are related by
12 blood or marriage.

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

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

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

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

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

28 (10) "Substantive dating" or "engagement relationship" means a significant and
29 personal/intimate relationship which shall be adjudged by the court's consideration by the
30 following factors:

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

32 (ii) The type of relationship; and

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

34 **15-15-5. Duties of police officers.**

1 (a) Whenever any police officer has reason to believe that a family member or parent has
2 been abused, that officer shall use all reasonable means to prevent further abuse, including:

3 (1) Remaining on the scene as long as there is a danger to the physical safety of the
4 person or until the person is able to leave the dwelling unit;

5 (2) Assisting the person in obtaining medical treatment necessitated by an assault,
6 including obtaining transportation to an emergency medical treatment facility;

7 (3) Giving the person immediate and adequate notice of his or her rights under this
8 chapter;

9 (4) Arresting the abusive person pursuant to the arrest provisions in § 12-29-3; and

10 (5) Reporting any physical injury to a minor child or a threat to physically injure a minor
11 child within twenty-four (24) hours of his or her investigation to CANTS (Child abuse and
12 neglect tracking system).

13 (b) Notice by the police officer to the victim shall be by handing the victim a copy of the
14 following statement written in English, Portuguese, Spanish, Cambodian, Hmong, Laotian,
15 Vietnamese, and French, and by reading the statement to the person when possible:

16 SPOUSE, FORMER SPOUSE, BLOOD RELATIVE, CHILDREN IN COMMON,
17 MINORS IN SUBSTANTIVE DATING OR ENGAGEMENT RELATIONSHIP, PLAINTIFF
18 PARENT'S MINOR CHILD(REN) TO WHICH DEFENDANT IS NOT A BLOOD RELATIVE
19 OR RELATIVE BY MARRIAGE.

20 "If your attacker is your spouse, former spouse, or person to whom you are related by
21 blood or marriage, or if you are not married to your attacker but have a child in common, or if
22 you and/or your attacker is a minor who have been in a substantive dating or engagement
23 relationship within the past ~~six (6) months~~ one year, you have the right to go to the family court
24 and request:

25 "(1) An order restraining your attacker from abusing you, ~~or~~ your minor child, or a
26 plaintiff parent's minor child(ren) to which the defendant is not a blood relative or relative by
27 marriage;

28 "(2) An order awarding you exclusive use of your marital domicile;

29 "(3) An order awarding you custody of your minor child."

30 UNMARRIED/NOT RELATED COHABITANTS WITHIN THE PAST THREE
31 YEARS, OR HAVE BEEN IN A SUBSTANTIVE DATING OR ENGAGEMENT
32 RELATIONSHIP WITHIN THE PAST ~~SIX (6) MONTHS~~ ONE YEAR

33 "If you are not married or related to your attacker, but have resided with him or her
34 within the past three (3) years, or you are in or have been in a substantive dating or engagement

1 relationship with your attacker within the past ~~six (6) months~~ one year, you have the right to go to
2 the district court and request:

3 "(1) An order restraining your attacker from abusing you;

4 "(2) An order directing your attacker to leave your household, unless he or she has the
5 sole legal interest in the household."

6 **ADDITIONAL RIGHTS.**

7 "If you are in need of medical treatment, you have the right to have the officer present
8 obtain transportation to an emergency medical treatment facility.

9 "If you believe that police protection is needed for your physical safety, you have the
10 right to have the officer present remain at the scene until you and your children can leave or until
11 your safety is otherwise ensured.

12 "You have the right to file a criminal complaint with the responding officer or your local
13 police department if the officer has not arrested the perpetrator."

14 (c) A police officer shall ensure enforcement of the terms of a protective order issued
15 pursuant to this chapter including, but not limited to, accompanying a family member or parent to
16 his or her dwelling or residence in order to secure possession of the dwelling or residence.

17 (d) When service of the temporary order issued pursuant to § 15-15-4 has not been made
18 and/or after a permanent order is entered, a police officer shall give notice of the order to the
19 defendant by handing him or her a certified copy of the order. The officer shall indicate that he or
20 she has given notice by writing on plaintiff 's copy of the order and the police department's copy
21 of the order, the date and time of giving notice and the officer's name and badge number. The
22 officer shall indicate on the offense report that actual notice was given.

23 **15-15-6. Form of complaint.**

24 (a) A form in substantially the following language shall suffice for the purpose of filing a
25 complaint under this chapter:

26	STATE OF RHODE ISLAND		FAMILY COURT
27	COUNTY OF _____		
28	_____ :		
29		Plaintiff :	
30		:	
31		VS. :	F.C. NO. _____
32		:	
33	_____ :		
34		Defendant:	

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

COMPLAINT FOR PROTECTION FROM ABUSE

Pursuant to Chapter 15 of this title, I request that the court enter an order protecting me from abuse.

(1) My full name, present street address, city, and telephone number are as follows: _____

(2) My former residence, which I have left to avoid abuse, is as follows (street address and city): _____

(3) The full name, present street address, city, and telephone number of the person causing me abuse (the defendant) are as follows:

(4) My relationship to the defendant is as follows:
_____ We (are) (were formerly) married to one another.

_____ I am the defendant's (child) (parent).

_____ I am the blood relative or relative by marriage of the defendant; specifically, the defendant is my _____

_____ I and the defendant are together the legal parents of one or more children [in common](#).

_____ [I and the defendant have had a substantive dating or engagement relationship.](#)

_____ [I am a parent of a minor child\(ren\) in my care or custody, to which defendant is not a blood relative or relative by marriage.](#)

(5) On or about _____, I suffered abuse when the defendant:

_____ Threatened or harmed me with a weapon; (type of weapon used: _____)

_____ Attempted to cause me physical harm;

_____ Caused me physical harm;

_____ Placed me in fear of imminent physical harm;

_____ Caused me to engage involuntarily in sexual relations by force, threat of force, or duress. Specifically, the defendant

1 (6) I ask that:

2 _____ The court order that the defendant be restrained and enjoined from contacting,
3 assaulting, molesting, or otherwise interfering with the plaintiff at home, on the street or
4 elsewhere.

5 _____ The court order the defendant to immediately leave the household which is
6 located at

7 _____

8 _____ The court award me temporary custody of the following minor child(ren)(the
9 defendant and I are husband and wife):

10 Names	Date of Birth
11 That _____	
12 _____	
13 _____	

14 I request that the above relief be ordered without notice because it clearly appears from
15 specific facts shown by affidavit or by the verified complaint that I will suffer immediate and
16 irreparable injury, loss, or damage before notice can be served and a hearing had thereon. I
17 understand that the court will schedule a hearing no later than twenty-one (21) days after the
18 order is entered on the question of continuing the temporary order.

19 (7) I have not sought protection from abuse from any other judge of the family court
20 arising out of the facts or circumstances alleged in this complaint.

21 (8) That the court award me support for my minor children as required by law for a
22 period not to exceed ninety (90) days.

23 _____

24 (Signature) (Date)

25 Subscribed and sworn to before me in _____ in the county of
26 _____ in the state of Rhode Island and Providence Plantations,
27 this _____ day of _____ A.D. 20_____.

28 _____

29 Notary Public

30 Note: If this complaint is filed by an attorney, the attorney's certificate should appear as
31 below:

32 ATTORNEY CERTIFICATE

33 Signed: _____

34 Attorney for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Address: _____

Date: _____, 20 _____

WHITE COPY -- Court
YELLOW COPY -- Plaintiff
PINK COPY -- Defendant
GOLDENROD COPY -- Police Department

(b) A form in substantially the following language shall suffice for the purpose of requesting temporary orders under this chapter:

STATE OF RHODE ISLAND FAMILY COURT
COUNTY OF _____

Plaintiff :
:
VS. : F.C. NO. _____
:

Defendant:

TEMPORARY ORDER PURSUANT TO CHAPTER 15 OF
THIS TITLE GENERAL LAWS OF RHODE ISLAND

Upon consideration of plaintiff's complaint and having found that immediate and irreparable injury, loss, or damage will result to the plaintiff before a notice can be served and a hearing had thereon it is ORDERED:

_____ That the defendant is restrained and enjoined from contacting, assaulting, molesting, or otherwise interfering with plaintiff and any minor children of the plaintiff at home, on the street, or elsewhere, to wit, _____

_____ That the defendant vacate forthwith the household located at _____

_____ That the plaintiff, being the [husband] [wife] of the defendant, be and [s]he hereby is awarded temporary custody of the minor child[ren], to wit, _____

_____ That the defendant pay to the plaintiff the support of the minor child(ren) the sum

1 of \$ _____ per _____.

2 _____ That _____

3 _____

4 _____

5 A hearing on the continuation of this ORDER will be held at the family court,
6 _____ County, at _____ [A.M.] [P.M.] on _____.

7 If the defendant wishes to be heard, [s]he will be heard at that time. If [s]he does not appear at
8 that time, this ORDER shall remain in effect.

9 This ORDER is effective forthwith, and will remain in effect until the time and date of
10 the above-mentioned hearing.

11 A copy of this ORDER shall be transmitted to the appropriate local law enforcement
12 agency forthwith, and shall be served in-hand on the defendant herein.

13 ENTERED as an order of court this _____ day of _____, A.D. 20__.

14 SECTION 2. Section 8-8.1-5 of the General Laws in Chapter 8-8.1 entitled "Domestic
15 Assault" is hereby amended to read as follows:

16 **8-8.1-5. Duties of police officers.**

17 (a) Whenever any police officer has reason to believe that a cohabitant or minor has been
18 abused, that officer shall use all reasonable means to prevent further abuse, including:

19 (1) Remaining on the scene as long as there is danger to the physical safety of the person
20 or until the person is able to leave the dwelling unit;

21 (2) Assisting the person in obtaining medical treatment necessitated by an assault,
22 including obtaining transportation to an emergency medical treatment facility;

23 (3) Giving the person immediate and adequate notice of his or her rights under this
24 chapter;

25 (4) Arresting the person pursuant to the arrest provisions as contained in § 12-29-3.

26 (b) Notice by the police officer to the victim shall be by handing the victim a copy of the
27 following statement written in English, Portuguese, Spanish, Cambodian, Hmong, Laotian,
28 Vietnamese, and French, and by reading the statement to the person when possible:

29 Spouse, former spouse/blood relative/children in common; minor(s) in a substantive
30 dating or engagement relationship; a plaintiff parent's minor child(ren) to which the defendant is
31 not a blood relative or relative by marriage:

32 "If your attacker is your spouse, former spouse, person to whom you are related by blood
33 or marriage, or if you are not married to your attacker, but have a child in common, or if you
34 and/or your attacker are a minor who have been in a substantive dating or engagement

1 relationship within the past six ~~(6) months~~ one year, you have the right to go to the family court
2 and ask the court to issue an order restraining your attacker from abusing you, ~~or~~ your minor child
3 , or a plaintiff parent's minor child(ren) to which the defendant is not a blood relative or relative
4 by marriage; you have the right to go to the family court and request:

5 (1) an order restraining your attacker from abusing you, ~~or~~ your minor child , or a
6 plaintiff parent's minor child(ren) to which defendant is not a blood relative or relative by
7 marriage;

8 (2) an order awarding you exclusive use of your marital domicile;

9 (3) an order awarding you custody of your minor child."

10 Unmarried/not related cohabitants within the past three (3) years or substantive dating or
11 engagement relationship within past six ~~(6) months~~ one year:

12 "If you are not married or related to your attacker, but have resided with him or her
13 within the past three (3) years, you have the right to go to the district court and request;

14 (1) an order restraining your attacker from abusing you;

15 (2) an order directing your attacker to leave your household, unless she or he has the sole
16 legal interest in the household."

17 "If you are in need of medical treatment, you have the right to have the officer present
18 obtain transportation to an emergency medical treatment facility."

19 "If you believe that police protection is needed for your physical safety, you have the
20 right to have the officer present remain at the scene until you and your children can leave or until
21 your safety is otherwise insured."

22 "You have the right to file a criminal complaint with the responding officer or your local
23 police department if the officer has not arrested the perpetrator."

24 (c) A police officer shall ensure enforcement of the terms of the protective order issued
25 pursuant to this chapter including but not limited to accompanying a cohabitant to his or her
26 dwelling or residence in order to secure possession of the dwelling or residence when a vacate
27 order against the defendant has been issued.

28 (d) When service of the temporary order issued pursuant to § 8-8.1-4 has not been made
29 and/or after a permanent order is entered, a police officer shall give notice of the order to the
30 defendant by handing him or her a certified copy of the order. The officer shall indicate that he or
31 she has given notice by writing on plaintiff's copy of the order and the police department's copy
32 of the order the date, and time of giving notice and the officer's name and badge number. The
33 officer shall indicate on the offense report that actual notice was given.

34

1 SECTION 3. This act shall take effect upon passage.

=====
LC001820/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO DOMESTIC RELATIONS - DOMESTIC ABUSE PREVENTION

1 This act would allow plaintiffs seeking a domestic abuse protective order in family court
2 to include any of their minor children or a plaintiff parent's minor children who are not related to
3 the defendant by blood or marriage within the same complaint and restraining order, rather than
4 seeking a protective order in district or superior court of children not biologically-related or
5 marriage-related to the defendant.

6 This act would take effect upon passage.

=====
LC001820/SUB A
=====