

2013 -- H 5427

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- DISPOSITION OF DOMESTIC VIOLENCE
CASES

Introduced By: Representatives Serpa, Fellela, Costa, Shekarchi, and Azzinaro

Date Introduced: February 13, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

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

3 **12-29-5. Disposition of domestic violence cases.** -- (a) Every person convicted of or
4 placed on probation for a crime involving domestic violence or whose case is filed pursuant to
5 section 12-10-12 where the defendant pleads nolo contendere, in addition to any other sentence
6 imposed or counseling ordered, shall be ordered by the judge to attend, at his or her own expense,
7 a batterer's intervention program appropriate to address his or her violent behavior; provided,
8 however, that the court may permit a servicemember or veteran to complete any court-approved
9 counseling program administered or approved by the Veterans' Administration. This order shall
10 be included in the conditions of probation. Failure of the defendant to comply with the order shall
11 be a basis for violating probation and/or the provisions of section 12-10-12. This provision shall
12 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 section 12-29-2 or whose case if filed pursuant to section 12-10-12
15 where the defendant pleads guilty or nolo contendere, in addition to other court costs or
16 assessments imposed, shall be ordered to pay a one hundred twenty-five dollar (\$125)
17 assessment. Eighty percent (80%) of the assessment collected pursuant to this section shall be
18 provided to the Rhode Island Coalition Against Domestic Violence for programs to assist victims

1 of domestic violence and twenty percent (20%) of the assessment shall be deposited as general
2 revenue.

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

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

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

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

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

12 (d) For the purposes of this section, "batterers intervention program" means a program
13 which is certified by the batterers intervention program standards oversight committee according
14 to minimum standards, pursuant to sections 12-29-5.1, 12-29-5.2, and 12-29-5.3.

15 (e) For purposes of this section, "servicemember" means a person who is presently
16 serving in the armed forces of the United States including the Coast Guard, a reserve component
17 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,
18 including the Coast Guard of the United States, a reserve component thereof, or the National
19 Guard, and has been discharged under other than dishonorable conditions.

20 (f) Every person convicted of or placed on probation for a crime involving domestic
21 violence, as enumerated in section 12-29-2, or whose case if filed pursuant to section 12-10-12
22 where the defendant pleads guilty or nolo contendere and is found to have committed said offense
23 in the presence of a child as defined in subdivision (2), shall be subject to a mandatory assessment
24 of two hundred and fifty dollars (\$250) in addition to other court costs or assessments imposed.

25 (1) For the purposes of this section, "child" is any individual under the age of sixteen (16)
26 who is the defendant's or victim's child or step-child or who is a minor child residing within or
27 visiting the household of the defendant or victim.

28 (2) For the purposes of this section, "in the presence of a child" means in the physical or
29 audible presence of a child or knowing or having reason to know that a child is present and may
30 see or hear an act constituting a domestic offense.

31 (3) The presence of a child must be established by means other than the child's
32 testimony. The presence of a child may be established by means including, but not limited to,
33 police officer's testimony, photographs, evidence of violence, excited utterances, 911 tape
34 recordings or witness testimony.

1 (4) The mandatory assessment fee shall be deposited as general revenue, and shall be
2 used to fund treatment for children exposed to acts of domestic violence.

3 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 -- DISPOSITION OF DOMESTIC VIOLENCE
CASES

1 This act would create a mandatory two hundred fifty dollar (\$250) assessment for those
2 convicted of a crime of domestic violence which occurred in the physical or audible presence of a
3 child.

4 This act would take effect upon passage.

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