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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO DOMESTIC RELATIONS -- DOMESTIC ABUSE PREVENTION

Introduced By: Representatives Roberts, Nardolillo, Filippi, Kazarian, and Abney

Date Introduced: February 25, 2015

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 15-15-1, 15-15-2 and 15-15-3 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.** -- The following words as used in this chapter have the following
4 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 (v) When the minor person is involved in a relationship deemed by a parent or other
16 interested party to be a dangerous and unhealthy relationship, or which otherwise would be
17 deemed not to be in the best interest of the minor child. Such factors shall be determined by the
18 court after testimony and/or sworn affidavits are reviewed and submitted for consideration under
19 this chapter.

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

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

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

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

9 (ii) The type of relationship; and

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

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

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

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

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

23 (10) "Interested party or parties" means any adult individual acting in loco parentis for
24 the benefit of a minor child, notwithstanding whether or not the child is related by blood or
25 marriage to the adult individual.

26 **15-15-2. Filing of complaint.** -- (a) Proceedings under this chapter shall be filed, heard,
27 and determined in the family court of the county in which the plaintiff resides and shall be
28 independent of divorce proceedings.

29 (b) Any proceedings under this chapter shall not preclude any other available civil or
30 criminal remedies.

31 (c) A party filing a complaint under this chapter may do so without payment of any filing
32 fee, but shall be required to disclose any prior or pending actions for divorce or separation.

33 (d) If the plaintiff has left the residence or household to avoid abuse, he or she may bring
34 the action in the court of previous residence or the court of present residence. There shall be no

1 minimum residence requirements for the bringing of an action under this chapter.

2 [\(e\) A complaint may be filed by an interested party or parties, as defined in § 15-15-1, if](#)
3 [the minor plaintiff is not willing or unable to complete the complaint process as required by this](#)
4 [chapter.](#)

5 **15-15-3. Protective orders -- Penalty -- Jurisdiction.** -- (a) A person suffering from
6 domestic abuse may file a complaint [or may have a complaint filed on their behalf by an](#)
7 [interested party or parties](#) in the family court requesting any order which will protect and support
8 her or him from abuse including, but not limited, to the following:

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

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

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

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

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

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

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

34 (d) If the defendant is present in court at a duly noticed hearing, the court may order the

1 defendant to physically surrender any firearm in that person's immediate possession or control, or
2 subject to that person's immediate physical possession or control, within twenty-four (24) hours
3 of the order, by surrendering the possession of the firearm(s) to the control of any individual not
4 legally prohibited from possessing a firearm(s) who is not related to the defendant by blood,
5 marriage, or relationship as defined by § 15-15-1(3), (4), or (5), of the Rhode Island general laws,
6 or by surrendering any firearm(s) to the Rhode Island State Police or local police department, or
7 by surrendering the firearm(s) to a licensed gun dealer. If the defendant is not present at the
8 hearing, the defendant shall surrender possession of the firearm(s) within forty-eight (48) hours
9 after being served with the order. A person ordered to surrender possession of any firearm(s)
10 pursuant to this subsection shall file with the court a receipt showing the firearm(s) was either
11 legally transferred to an individual not legally prohibited from possessing a firearm who is not
12 related to the defendant by blood, marriage, or relationship as defined by § 15-15-1(3), (4), or (5)
13 of the Rhode Island general laws or surrender to a licensed gun dealer within seventy-two (72)
14 hours after receiving the order. Any defendant transporting a firearm to surrender in accordance
15 with the above shall not be liable to prosecution under § 11-47-8.

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

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

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

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

31 (2) The contempt order shall not be exclusive and shall not preclude any other available
32 civil or criminal remedies. Any relief granted by the court shall be for a fixed period of time not
33 to exceed three (3) years, at the expiration of which time the court may extend any order, upon
34 motion of the plaintiff, for any additional time, that it deems necessary to protect the plaintiff

1 from abuse. The court may modify its order at any time upon motion of either party.

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

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

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

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

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

12 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 The act would allow parents or interested parties to file for a protective order in the
2 family court on behalf of a minor child when the minor child is either unable or unwilling to file
3 on their own behalf. It would also set forth parameters defining when such an order shall be
4 sought, and how relief should be granted by the court.

5 This act would take effect upon passage.

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