

2024 -- H 7744

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO CRIMINAL PROCEDURE -- DOMESTIC VIOLENCE PREVENTION ACT

Introduced By: Representatives Fogarty, Tanzi, Cortvriend, Boylan, Carson, McEntee,
Kazarian, Cotter, Donovan, and Speakman

Date Introduced: February 28, 2024

Referred To: House Judiciary

(Attorney General)

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.**

4 (a) Every person convicted of, or placed on probation for, a crime involving domestic
5 violence or whose case is filed pursuant to § 12-10-12 where the defendant pleads nolo contendere,
6 in addition to any other sentence imposed or counseling ordered, shall be ordered by the judge to
7 attend, at his or her own expense, a batterer's intervention program appropriate to address his or
8 her violent behavior; provided, however, that the court may permit a servicemember or veteran to
9 complete any court-approved counseling program administered or approved by the Veterans'
10 Administration. This order shall be included in the conditions of probation. Failure of the defendant
11 to comply with the order shall be a basis for violating probation and/or the provisions of § 12-10-
12 12. This provision shall 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 § 12-29-2, or whose case is filed pursuant to § 12-10-12 where the
15 defendant pleads guilty or nolo contendere, in addition to other court costs or assessments imposed,
16 shall be ordered to pay a one hundred twenty-five dollar (\$125) assessment. Eighty percent (80%)
17 of the assessment collected pursuant to this section shall be provided to the Rhode Island Coalition
18 Against Domestic Violence for programs to assist victims of domestic violence and twenty percent
19 (20%) of the assessment shall be deposited as general revenue.

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

3 (i) For a second violation, including both prior felony and misdemeanor convictions, be
4 imprisoned for a term of not less than ten (10) days and not more than one year.

5 (ii) For a third and subsequent violation, including both prior felony and misdemeanor
6 convictions, be deemed guilty of a felony and be imprisoned for a term of not less than one year
7 and not more than ten (10) years.

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

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

11 (d) The court shall determine, for every person who pleads nolo contendere to, or is
12 convicted of, an offense involving domestic violence as enumerated in § 12-29-2, whether, as a
13 result of the plea or conviction, the defendant is prohibited under § 11-47-5(a)(3) or § 11-47-
14 5(a)(4) from purchasing, owning, carrying, transporting, or having in his or her possession any
15 firearm.

16 (1) Prior to the entry of a plea of nolo contendere to an offense involving domestic violence
17 as enumerated in § 12-29-2, the court shall advise the defendant that a plea of nolo contendere has
18 the same legal effect and collateral consequences as a plea of guilty.

19 (2) Prior to the entry of a plea of nolo contendere to an offense punishable as a felony
20 involving domestic violence as enumerated in § 12-29-2, or an offense enumerated in § 11-47-
21 5(a)(4), the court shall advise the defendant that, in addition to any other sentence or penalty, the
22 defendant shall, as result of the plea, be prohibited from purchasing, owning, carrying, transporting,
23 or having in their possession any firearm under § 11-47-5.

24 (3) The person required to surrender his or her firearms pursuant to this section shall not
25 be responsible for any costs of storage of any firearms surrendered pursuant to this section.

26 (e) For the purposes of this section, “batterers intervention program” means a program that
27 is certified by the batterers intervention program standards oversight committee according to
28 minimum standards, pursuant to §§ 12-29-5.1, 12-29-5.2, and 12-29-5.3.

29 (f) For purposes of this section, “servicemember” means a person who is presently serving
30 in the armed forces of the United States, including the Coast Guard, a reserve component thereof,
31 or the National Guard. “Veteran” means a person who has served in the armed forces, including
32 the Coast Guard of the United States, a reserve component thereof, or the National Guard, and has
33 been discharged under other than dishonorable conditions.

34 (g) The court shall indicate on every record of conviction or a plea of nolo contendere for

1 an offense punishable as a felony involving domestic violence, as defined in § 12-29-2, that the
2 defendant is prohibited under §§ 11-47-5 and 11-47-5.3 from purchasing, owning, carrying,
3 transporting, or having in their possession, any firearm(s). The court shall inform the defendant of
4 their prohibited status and shall order the defendant to surrender any firearm(s) in their ownership,
5 possession, care, custody or control in accordance with § 11-47-5.3.

6 (h) The court shall indicate on every record of conviction or a plea of nolo contendere for
7 an offense enumerated in § 11-47-5(a)(4) that the defendant is prohibited under §§ 11-47-5 and
8 11-47-5.4 from purchasing, owning, carrying, transporting, or having in their possession, any
9 firearm(s). The court shall inform the defendant of their prohibited status, shall order the defendant
10 to surrender any firearm(s) in their ownership, possession, care, custody or control, and shall ensure
11 that surrender is made in accordance with § 11-47-5.4.

12 (i) No proceeds shall be provided to any person if the firearm(s) is destroyed pursuant to
13 this section.

14 (j) Any firearm(s) used in the commission of the offense leading to the conviction pursuant
15 to this section shall be forfeited to the state upon conviction.

16 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 -- DOMESTIC VIOLENCE PREVENTION ACT

1 This act would provide that a defendant's third and subsequent violation of domestic
2 violence offenses, including both prior felony and misdemeanor convictions, would be punishable
3 as a felony.

4 This act would take effect upon passage.

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