

2018 -- H 7889

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- DOMESTIC ASSAULT

Introduced By: Representatives Tanzi, Blazejewski, and McEntee

Date Introduced: February 28, 2018

Referred To: House Judiciary

(Judiciary)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 8-8.1-3 of the General Laws in Chapter 8-8.1 entitled "Domestic
2 Assault" is hereby amended to read as follows:

3 **8-8.1-3. Protective orders -- Penalty -- Jurisdiction.**

4 (a) A person suffering from domestic abuse may file a complaint in the district court
5 requesting any order which will protect her or him from the abuse, including but not limited to
6 any of all the following terms:

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

10 (2) Ordering the defendant to vacate the household forthwith, unless the defendant holds
11 sole legal interest in the household;

12 (3) Upon motion by the plaintiff, his or her address shall be released only at the discretion
13 of the district court judge;

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

1 (b) Upon a finding of immediate risk of injury or harm pursuant to §8-8.1-4, the court
2 may enter an ex parte order granting the relief requested, including ordering the immediate
3 surrender of any firearms in the defendant's possession, care, custody or control pending a
4 hearing on the merits which shall be held within twenty-one (21) days.

5 (1) A defendant ordered to surrender firearms shall, within twenty-four (24) hours of
6 notice of the protective order, surrender all firearms to the Rhode Island state police or local
7 police department or to a federally licensed firearms dealer.

8 ~~(2)~~ (2) A person ordered to surrender possession of any firearm(s) pursuant to this section
9 shall, within seventy-two (72) hours after being served with the order, either:

10 ~~(A)~~ (i) File with the court a receipt showing the firearm(s) was physically surrendered to
11 the Rhode Island state police or local police department, or to a federally licensed firearm dealer;
12 or

13 ~~(B)~~ (ii) Attest to the court that, at the time of the order, the person ordered to surrender
14 possession of firearms had no firearms in his or her immediate physical possession or control, or
15 subject to his or her immediate physical possession or control, and that ~~the person~~, at the time of
16 the attestation, ~~has~~ no firearms were in or subject to his or her immediate physical possession or
17 control ~~or subject to his or her immediate physical possession or control.~~

18 (iii) Sworn peace officers as defined in § 12-7-21 and active members of military service,
19 including members of reserve components thereof, who are required by law or departmental
20 policy to carry departmental firearms while on duty, or any person who is required by their
21 employment to carry a firearm in the performance of their duties, shall, in addition to the
22 requirements under subsections (b)(2)(i) and (b)(2)(ii) of this section, file an attestation of
23 exemption with the court certifying that they are exempt from surrendering their departmental
24 firearm, and that they shall be abide by the restrictions set forth in § 8-8.1-3(i).

25 (iv) Notices of surrender or attestations filed with the district court pursuant to subsection
26 (b)(2)(i), (b)(2)(ii) or (b)(2)(iii) of this section shall be kept under seal and shall not be part of the
27 public record.

28 ~~(ii)~~ (v) If a person restrained under this section transfers a firearm(s) to a federally
29 licensed firearms dealer pursuant to this section, the person restrained under this section may
30 instruct the federally licensed firearms dealer to sell the firearm(s) or to transfer ownership in
31 accordance with state and federal law, to a qualified named individual who is not a member of the
32 restrained person's dwelling house, who is not related to the restrained person by blood, marriage,
33 or relationship as defined by § 15-15-1(7), and who is not prohibited from possessing firearms
34 under state or federal law. The owner of any firearm(s) sold shall receive any financial value

1 received from its sale, less the cost associated with taking possession of, storing, and transferring
2 of the firearm(s).

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

9 ~~(iv)~~(vii) An individual to whom possession of a firearm(s) is transferred pursuant to this
10 subsection shall return a firearm(s) to the person formerly restrained under this section only if the
11 person formerly restrained under this section provides documentation issued by a court indicating
12 that the restraining order issued pursuant to this section that prohibited the person from
13 purchasing, carrying, transporting, or possessing firearms has expired and has not been extended.

14 ~~(b)~~(c) After notice to the ~~respondent~~ defendant and after a hearing, ~~which shall be held~~
15 ~~within fifteen (15) days of surrendering said firearms,~~ the court, ~~in addition to any other~~
16 ~~restrictions, may, for any protective order issued or renewed on or after July 1, 2017, continue the~~
17 ~~order of surrender, and shall further order a person restrained under this section not to purchase or~~
18 ~~receive, or attempt to purchase or receive, any firearms while the protective order is in effect~~ shall
19 make whatever orders it deems necessary for the protection of the plaintiff from abuse.
20 Contemporaneously with the hearing on the merits of the underlying complaint for a protective
21 order, the court shall consider the surrender of the firearms. If the complaint is granted, the court
22 shall extend the ex parte order of surrender or order the immediate surrender of any firearms in
23 the defendant's possession, care, custody or control and shall further order a person restrained
24 under this section not to purchase, receive, or attempt to purchase or receive, any firearms while
25 the protective order is in effect.

26 ~~(e)~~(d) The district court shall provide a notice on all forms requesting a protective order
27 that a person restrained under this section shall be ordered pursuant to § 11-47-5, to surrender
28 possession or control of any firearms and not to purchase or receive, or attempt to purchase or
29 receive, any firearms while the restraining order is in effect. The form shall further provide that
30 any person who has surrendered their firearms pursuant to an ex parte order shall be afforded a
31 hearing ~~within fifteen (15) days of surrendering their firearms~~ contemporaneously with the
32 hearing on the merits of the underlying complaint for a protective order.

33 ~~(d)~~(e) Any firearm surrendered in accordance with this section to the Rhode Island state
34 police or local police department shall be returned to the person formerly restrained under this

1 section upon their request when:

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

6 (2) The law enforcement agency in possession of the firearms determines that the person
7 formerly restrained under this section is not otherwise prohibited from possessing a firearm under
8 state or federal law.

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

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

15 ~~(e)~~(g) Nothing in this section shall be construed to limit, expand, or in any way modify
16 orders issued under §§ 12-29-4 or 15-5-19.

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

19 ~~(h)~~(1) When a defendant files a motion with the court for a modification of an order to
20 surrender their firearm(s), the ~~The~~ court shall immediately notify the person suffering from
21 domestic abuse whose complaint gave rise to the protective order, the Rhode Island state police,
22 the attorney general and the local law enforcement agency of the city or town in which ~~where~~ the
23 person restrained under this section resides, of the hearing.

24 ~~(h)~~(2) The person suffering from domestic abuse, the Rhode Island state police, the
25 attorney general, local law enforcement, and the person restrained under this section shall all have
26 an opportunity to be present and to testify when the court considers the ~~petition~~ motion for
27 modification.

28 ~~(h)~~(3) 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 and that possession of a firearm while subject to the protective order already granted after a
32 hearing on the merits would not constitute a federal crime under 18 U.S.C. §§ 922(G)(8) and/or
33 (9).

34 ~~(1) In determining whether to restore a person's firearm rights, the court shall examine all~~

1 ~~relevant evidence, including, but not limited to: the complaint seeking a protective order; the~~
2 ~~criminal record of the person restrained under this section; the mental health history of the person~~
3 ~~restrained under this section; any evidence that the person restrained under this section has, since~~
4 ~~being served with the order, engaged in violent or threatening behavior against the person~~
5 ~~suffering from domestic abuse or any other person.~~

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

11 ~~(3)~~(5) If the court lifts a person's firearms prohibition pursuant to this subsection, the
12 court shall issue the person written notice that he or she is no longer prohibited under this section
13 from purchasing or possessing firearms while the protective order is in effect.

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

23 ~~(4)~~(j)(1) Any violation of the ~~forementioned protective order~~ requirements of this section
24 shall subject the defendant to being found in contempt of court.

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

30 ~~(m)~~(k) No order shall issue under this section that would have the effect of compelling a
31 defendant who has the sole legal interest in a residence to vacate that residence.

32 ~~(n) The contempt order shall not be exclusive and shall not preclude any other available~~
33 ~~civil or criminal remedies. Any relief granted by the court shall be for a fixed period of time not~~
34 ~~to exceed three (3) years, at the expiration of which time the court may extend any order upon~~

1 ~~motion of the plaintiff for such additional time as it deems necessary to protect the plaintiff from~~
2 ~~abuse. The court may modify its order at any time upon motion of either party.~~

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

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

8 ~~(m)~~ "Actual notice" means that the defendant has received a copy of the order by
9 service thereof or by being handed a copy of the order by a police officer pursuant to § 8-8.1-5(d).

10 ~~(n)~~ The district court shall have criminal jurisdiction over all violations of this chapter.

11 SECTION 2. Section 15-15-3 of the General Laws in Chapter 15-15 entitled "Domestic
12 Abuse Prevention" is hereby amended to read as follows:

13 **15-15-3. Protective orders -- Penalty -- Jurisdiction.**

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

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

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

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

25 (4) Ordering the defendant to surrender physical possession of all firearms in his or her
26 possession, care, custody, or control and ~~shall~~ further ~~order~~ ordering a person so restrained not to
27 purchase or receive, or attempt to purchase or receive, any firearms while the protective order is
28 in effect. ~~The defendant shall surrender said firearms within twenty four (24) hours of notice of~~
29 ~~the protective order to the Rhode Island state police or local police department or to a federally~~
30 ~~licensed firearms dealer.~~

31 (5) Ordering, after notice to the defendant and a hearing, either party to make payments
32 for support of a minor child or children of the parties as required by law for a period not to exceed
33 ninety (90) days, unless the child support order is for a child or children receiving public
34 assistance pursuant to chapter 5.1 of title 40. In these cases, legal counsel for the department of

1 human services, office of child support enforcement, shall be notified as a party in interest to
2 appear for the purpose of establishing a child support order under a new or existing docket
3 number previously assigned to the parties and not under the protective docket number. The child
4 support order shall remain in effect until the court modifies or suspends the order.

5 (b) Upon a finding of immediate risk or injury or harm pursuant to § 15-15-4, the court
6 may enter an ex parte order granting the relief requested, including ordering the immediate
7 surrender of any firearms in the defendant's possession, care, custody or control and prohibiting
8 the defendant from purchasing, receiving or attempting to purchase or receive any firearms,
9 pending a hearing on the merits within twenty-one (21) days.

10 (1) A defendant ordered to surrender firearms shall, within twenty-four (24) hours of
11 notice of the protective order, surrender all firearms to the Rhode Island state police or local
12 police department or to a federally licensed firearms dealer.

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

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

18 ~~(B)~~(ii) Attest to the court that, at the time of the order, the person ordered to surrender
19 possession of firearms had no firearms in his or her immediate physical possession or control, or
20 subject to their immediate physical possession or control, and that ~~the person~~, at the time of the
21 attestation, ~~has~~ no firearms were in or subject to their immediate physical possession or control;
22 ~~or subject to their immediate physical possession or control.~~

23 (iii) Sworn peace officers as defined in § 12-7-21 and active members of military service,
24 including members of the reserve components thereof, who are required by law of departmental
25 policy to carry departmental firearms while on duty, or any person who is required by their
26 employment to carry a firearm in the performance of their duties, shall, in addition to the
27 requirements under subsections (b)(2)(i) and (b)(2)(ii) of this section, file an attestation of
28 exemption with the court certifying that they are exempt from surrendering their departmental
29 firearm, and that they will abide by the restrictions as set forth in § 15-15-3(i).

30 (iv) Notices of surrender or attestations filed with the family court pursuant to subsection
31 (b)(2)(i), (b)(2)(ii) or (b)(2)(iii) of this section shall be kept under seal and shall not be part of the
32 public record.

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

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

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

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

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

27 ~~(b)~~(c) After notice to the ~~respondent~~ defendant and after a hearing, ~~which shall be held~~
28 ~~within fifteen (15) days of surrendering said firearms,~~ the court, ~~in addition to any other~~
29 ~~restrictions, may, for any protective order issued after or renewed on or after July 1, 2017,~~
30 ~~continue the order of surrender, and shall further order a person restrained under this section not~~
31 ~~to purchase or receive, or attempt to purchase or receive, any firearms while the protective order~~
32 ~~is in effect~~ shall make whatever orders it deems necessary for the protection of the plaintiff from
33 abuse. Contemporaneously with the hearing on the merits of the underlying complaint for a
34 protective order, the court shall consider the surrender of firearms. If the complaint is granted, the

1 court shall extend the ex parte order of surrender or order the immediate surrender of any firearms
2 in the defendant's possession, care, custody or control and shall further order a person restrained
3 under this section not to purchase, receive, or attempt to purchase or receive, any firearms while
4 the protective order is in effect.

5 ~~(e)~~(d) The Family Court shall provide a notice on all forms requesting a protective order
6 that a person restrained under this section shall be ordered pursuant to § 11-47-5 to surrender
7 possession of any firearms while the protective order is in effect. The form shall further provide
8 that any person who has surrendered his or her firearms pursuant to an ex parte order shall be
9 afforded a hearing ~~within fifteen (15) days of surrendering his or her firearms~~ contemporaneously
10 with the hearing on the merits of the underlying complaint for a protective order.

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

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

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

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

23 ~~(e)~~(f) The Rhode Island state police are authorized to develop rules and procedures
24 pertaining to the storage and return of firearms surrendered to the Rhode Island state police or
25 local police departments pursuant to this section. The Rhode Island state police may consult with
26 the Rhode Island Police Chiefs' Association in developing rules and procedures.

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

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

31 ~~(h)~~(1) When a defendant files a motion with the court for a modification of an order to
32 surrender their firearms, the ~~The~~ court shall immediately notify the person suffering from
33 domestic abuse whose complaint gave rise to the protective order, and the local law enforcement
34 agency of the city or town in which ~~where~~ the person restrained under this section resides, of the

1 hearing.

2 ~~(1)~~(2) The person suffering from domestic abuse, local law enforcement, and the person
3 restrained under this section shall all have an opportunity to be present and to testify when the
4 court considers the ~~petition~~ motion for modification.

5 ~~(1)~~(3) At the hearing, the person restrained under this section shall have the burden of
6 showing, by clear and convincing evidence, that, if his or her firearm rights were restored, he or
7 she would not pose a danger to the person suffering from domestic abuse or to any other person
8 and that possession of a firearm while subject to the protective order already granted after a
9 hearing on the merits would not constitute a federal crime under 18 U.S.C. §§ 922(g)(8) and/or
10 (9).

11 ~~(1) In determining whether to restore a person's firearm rights, the court shall examine all~~
12 ~~relevant evidence, including, but not limited to: the complaint seeking a protective order; the~~
13 ~~criminal record of the person restrained under this section; the mental health history of the person~~
14 ~~restrained under this section; any evidence that the person restrained under this section has, since~~
15 ~~being served with the order, engaged in violent or threatening behavior against the person~~
16 ~~suffering from domestic abuse or any other person.~~

17 ~~(2)~~(4) If the court determines, after a review of all relevant evidence and after all parties
18 have had an opportunity to be heard, that the person restrained under this section would not pose
19 a danger to the person suffering from domestic abuse or to any other person if his or her firearm
20 rights were restored, then the court may grant the ~~petition~~ motion and modify the protective order
21 and lift the firearm prohibition.

22 ~~(3)~~(5) If the court lifts a person's firearms prohibition pursuant to this subsection, the
23 court shall issue the person written notice that he or she is no longer prohibited under this section
24 from purchasing or possessing firearms while the protective order is in effect.

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

34 ~~(5)~~(j) Upon motion by the plaintiff, his or her address shall be released only at the

1 discretion of the family court judge.

2 ~~(m)~~(k)(1) Any violation of the ~~protective orders in subsection (a)~~ requirements of this
3 section shall subject the defendant to being found in contempt of court.

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

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

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

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

16 ~~(p)~~(n)(1) The district court shall have criminal jurisdiction over all adult violations of this
17 chapter.

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

19 SECTION 3. Section 15-15-6 of the General Laws in Chapter 15-15 entitled "Domestic
20 Abuse Prevention" is hereby repealed.

21 ~~15-15-6. Form of complaint.~~

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

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

33 ~~COMPLAINT FOR PROTECTION FROM ABUSE~~

34 ~~Pursuant to Chapter 15 of this title, I request that the court enter an order protecting me~~

1 ~~from abuse.~~

2 ~~(1) My full name, present street address, city, and telephone number are as~~

3 ~~follows: _____~~

4 ~~_____~~

5 ~~(2) My former residence, which I have left to avoid abuse, is as follows (street address~~

6 ~~and city): _____~~

7 ~~_____~~

8 ~~(3) The full name, present street address, city, and telephone number of the person~~

9 ~~causing me abuse (the defendant) are as follows:~~

10 ~~_____~~

11 ~~(4) My relationship to the defendant is as follows:~~

12 ~~_____ We (are) (were formerly) married to one another.~~

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

14 ~~_____ I am the blood relative or relative by marriage of the defendant;~~

15 ~~specifically, the defendant is my _____~~

16 ~~_____ I and the defendant are together the legal parents of one or more children.~~

17 ~~(5) On or about _____, I suffered abuse when the~~

18 ~~defendant:~~

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

20 ~~_____ Attempted to cause me physical harm;~~

21 ~~_____ Caused me physical harm;~~

22 ~~_____ Placed me in fear of imminent physical harm;~~

23 ~~_____ Caused me to engage involuntarily in sexual relations by force, threat of~~

24 ~~force, or duress. Specifically, the defendant~~

25 ~~_____~~

26 ~~_____~~

27 ~~_____~~

28 ~~_____~~

29 ~~(6) I ask that:~~

30 ~~_____ The court order that the defendant be restrained and enjoined from contacting,~~

31 ~~assaulting, molesting, or otherwise interfering with the plaintiff at home, on the street or~~

32 ~~elsewhere.~~

33 ~~_____ The court order the defendant to immediately leave the household which is~~

34 ~~located at~~

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

~~Names _____ Date of Birth _____~~

~~That _____

_____~~

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

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

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

~~(Signature) _____ (Date) _____~~

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

~~Notary Public~~

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

ATTORNEY CERTIFICATE

~~Signed: _____~~

~~Attorney for Plaintiff~~

~~Address: _____~~

~~Date: _____, 20 _____~~

~~WHITE COPY _____ Court~~

~~YELLOW COPY _____ Plaintiff~~

~~PINK COPY _____ Defendant~~

1 ~~GOLDENROD COPY~~ _____ ~~Police Department~~

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

4 ~~STATE OF RHODE ISLAND~~ _____ ~~FAMILY COURT~~

5 ~~COUNTY OF~~ _____

6 _____ :

7 _____ ~~Plaintiff~~ :

8 _____ :

9 _____ ~~VS.~~ _____ : _____ ~~F.C. NO.~~ _____

10 _____ :

11 _____ :

12 _____ ~~Defendant:~~

13 ~~TEMPORARY ORDER PURSUANT TO CHAPTER 15 OF~~

14 ~~THIS TITLE GENERAL LAWS OF RHODE ISLAND~~

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

18 _____ ~~That the defendant is restrained and enjoined from contacting, assaulting,~~
19 ~~molesting, or otherwise interfering with plaintiff at home, on the street, or elsewhere.~~

20 _____ ~~That the defendant vacate forthwith the household located at~~
21 _____

22 _____

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

26 _____ ~~That the defendant pay to the plaintiff the support of the minor child(ren) the sum~~
27 ~~of \$ _____ per _____.~~

28 _____ ~~That _____~~
29 _____

30 _____

31 ~~A hearing on the continuation of this ORDER will be held at the family court,~~

32 _____ ~~County, at _____ [A.M.] [P.M.] on _____.~~
33 ~~If the defendant wishes to be heard, [s]he will be heard at that time. If [s]he does not appear at~~
34 ~~that time, this ORDER shall remain in effect.~~

1 ~~This ORDER is effective forthwith, and will remain in effect until the time and date of~~
2 ~~the above mentioned hearing.~~

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

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

6 SECTION 4. This act shall take effect upon passage.

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LC004855
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- DOMESTIC ASSAULT

1 This act would clarify the procedures for seeking a protective order from either the
2 district court or family court and the requirements of the surrender of any firearms when a
3 complaint for protection from abuse is granted. It would also repeal the outdated family court
4 form for complaints for protection from abuse.

5 This act would take effect upon passage.

=====
LC004855
=====