

2021 -- H 5569

=====  
LC001680  
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

---

A N A C T

RELATING TO DOMESTIC RELATIONS -- DOMESTIC ABUSE PREVENTION

Introduced By: Representative John J. Lombardi

Date Introduced: February 12, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 15-15-1 and 15-15-3 of the General Laws in Chapter 15-15 entitled  
2 "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 family.

11 (4) "Domestic abuse" means:

12 The occurrence of one or more of the following acts between present or former family  
13 members, parents, stepparents, a plaintiff parent's minor child(ren) to which the defendant is not a  
14 blood relative or relative by marriage, or persons who are or have been in a substantive dating or  
15 engagement relationship within the past one year in which at least one of the persons is a minor:

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

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

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

1 (iv) Stalking or cyberstalking.

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

6 (6) "Household pet" means a domesticated or tamed animal kept for companionship or  
7 pleasure.

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

10 ~~(7)~~(8) "Present or former family member" means the spouse, former spouse, minor  
11 children, stepchildren, a plaintiff parent's minor child(ren) to which the defendant is not a blood  
12 relative or relative by marriage, minor children of substantive dating partners, or persons who are  
13 related by blood or marriage.

14 ~~(8)~~(9) "Sexual exploitation" means the occurrence of any of the following acts by any  
15 person who knowingly or willfully encourages, aids, or coerces any child under the age of eighteen  
16 (18) years:

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

21 (A) "Commercial sex act" means any sex act or sexually explicit performance on account  
22 of which anything of value is given, promised to, or received, directly or indirectly, by any 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 private,  
25 live, photographed, recorded, or videotaped.

26 ~~(9)~~(10) "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)~~(11) "Substantive dating" or "engagement relationship" means a significant and  
29 personal/intimate relationship that shall be adjudged by the court's consideration of the following  
30 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 **15-15-3. Protective orders -- Penalty -- Jurisdiction.**

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

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

10 (2) Ordering the defendant to vacate the household immediately, and further providing in  
11 the order for the safety and welfare of all household animals and pets;

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

13 (4) Awarding the plaintiff custody of the household pet(s), if any, including the  
14 enforcement remedy of a restraining order or other injunctive relief if necessary;

15 ~~(4)~~(5) Ordering the defendant to surrender physical possession of all firearms in his or her  
16 possession, care, custody, or control and shall further order a person restrained not to purchase or  
17 receive, or attempt to purchase or receive, any firearms while the protective order is in effect. The  
18 defendant shall surrender said firearms within twenty-four (24) hours of notice of the protective  
19 order to the Rhode Island state police or local police department or to a federally licensed firearms  
20 dealer.

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

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

25 (B) Attest to the court that, at the time of the order, the person had no firearms in his or her  
26 immediate physical possession or control, or subject to their immediate physical possession or  
27 control, and that the person, at the time of the attestation, has no firearms in their immediate  
28 physical possession or control, or subject to their immediate physical possession or control.

29 (ii) If a person restrained under this section transfers a firearm(s) to a federally licensed  
30 firearms dealer pursuant to this section, the person restrained under this section may instruct the  
31 federally licensed firearms dealer to sell the firearm(s) or to transfer ownership, in accordance with  
32 state and federal law, to a qualified named individual who is not a member of the person's dwelling  
33 house, who is not related to the person by blood, marriage, or relationship as defined by ~~§ 15-15-~~  
34 ~~(7)~~ § 15-15-1(8), and who is not prohibited from possessing firearms under state or federal law.

1 The owner of any firearm(s) sold shall receive any financial value received from its sale, less the  
2 cost associated with taking possession of, storing, and transferring of the firearm(s).

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

9 (iv) An individual to whom ownership 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 purchasing,  
13 carrying, transporting, or possessing firearms has expired and has not been extended;

14 ~~(5)~~(6) 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 purpose  
19 of establishing a child support order under a new or existing docket number previously assigned to  
20 the parties and not under the protective docket number. The child support order shall remain in  
21 effect until the court modifies or suspends the order.

22 (b) After notice to the respondent and a hearing, which shall be held within fifteen (15)  
23 days of surrendering said firearms, the court, in addition to any other restrictions, may, for any  
24 protective order issued after or renewed on or after July 1, 2017, continue the order of surrender,  
25 and shall further order a person restrained under this section not to purchase or receive, or attempt  
26 to purchase or receive, any firearms while the protective order is in effect.

27 (c) The family court shall provide a notice on all forms requesting a protective order that a  
28 person restrained under this section shall be ordered pursuant to § 11-47-5 to surrender possession  
29 of any firearms while the protective order is in effect. The form shall further provide that any person  
30 who has surrendered his or her firearms shall be afforded a hearing within fifteen (15) days of  
31 surrendering his or her firearms.

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

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

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

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

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

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

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

18          (h) The court shall immediately notify the person suffering from domestic abuse whose  
19 complaint gave rise to the protective order, and the law enforcement agency where the person  
20 restrained under this section resides, of the hearing.

21          (i) The person suffering from domestic abuse, local law enforcement, and the person  
22 restrained under this section shall all have an opportunity to be present and to testify when the court  
23 considers the petition.

24          (j) At the hearing, the person restrained under this section shall have the burden of showing,  
25 by clear and convincing evidence, that, if his or her firearm rights were restored, he or she would  
26 not pose a danger to the person suffering from domestic abuse or to any other person.

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

33          (2) If the court determines, after a review of all relevant evidence and after all parties have  
34 had an opportunity to be heard, that the person restrained under this section would not pose a danger

1 to the person suffering from domestic abuse or to any other person if his or her firearm rights were  
2 restored, then the court may grant the petition and modify the protective order and lift the firearm  
3 prohibition.

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

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

16 (l) Upon motion by the plaintiff, his or her address shall be released only at the discretion  
17 of the family court judge.

18 (m)(1) Any violation of the protective orders in subsection (a) of this section shall subject  
19 the defendant to being found in contempt of court.

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

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

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

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

32 (p)(1) The district court shall have criminal jurisdiction over all adult violations of this  
33 chapter.

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

1 SECTION 2. This act shall take effect upon passage.

=====  
LC001680  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T  
RELATING TO DOMESTIC RELATIONS -- DOMESTIC ABUSE PREVENTION

\*\*\*

- 1           This act would permit the family court to award custody of household pets to the plaintiff
- 2   in a domestic abuse complaint.
- 3           This act would take effect upon passage.

=====  
LC001680  
=====