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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- DOMESTIC ASSAULT -
PROTECT RHODE ISLAND FAMILIES ACT

Introduced By: Representatives Tanzi, Amore, Fogarty, Ruggiero, and Maldonado

Date Introduced: February 15, 2017

Referred To: House 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 the
6 following:

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)~~(b) After notice to the respondent and after a hearing, the court, in addition to any
15 other restrictions, may shall, for any protective order issued or renewed on or after July 1, 2017,
16 order ~~the defendant~~ a person restrained under this section to surrender physical possession of all
17 firearms in his or her possession, care, custody or control, and shall further order a person
18 restrained under this section not to purchase or receive or attempt to purchase or receive any

1 firearms while the protective order is in effect.

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

7 (c) The district court shall provide a notice on all forms requesting a protective order that,
8 at the hearing for a protective order, ~~the defendant~~ a person restrained under this section shall
9 ~~may~~ be ordered pursuant to §11-47-5 to surrender possession or control of any firearms and not to
10 purchase or receive or attempt to purchase or receive any firearms ~~while the~~ for a period not to
11 ~~exceed the duration of the~~ restraining order is in effect.

12 (d) If ~~the defendant~~ a person restrained under this section is present in court at a duly
13 noticed hearing, the court ~~may~~, in addition to any other restrictions, shall for any protective order
14 issued or renewed on or after July 1, 2017, order ~~the defendant~~ a person restrained under this
15 section to physically surrender any firearm(s) in that person's immediate physical possession or
16 control, or subject to that person's immediate physical possession or control, within twenty-four
17 (24) hours of the order, by surrendering the possession of the firearm(s) ~~to the control of any~~
18 ~~individual not legally prohibited from possessing a firearm who is not related to the defendant by~~
19 ~~blood, marriage, or relationship as defined by § 15-15-1(3), (4), or (5) of the Rhode Island general~~
20 ~~laws, or by surrendering any firearm(s)~~ to the Rhode Island state police or local police
21 department, or by surrendering the firearm(s) to a licensed gun dealer. If ~~the defendant~~ a person
22 restrained under this section is not present at the hearing, the ~~defendant~~ person restrained under
23 this order shall surrender the firearm(s) within forty-eight (48) hours after being served with the
24 order.

25 (e) A person ordered to surrender possession of any firearm(s) pursuant to this subsection
26 shall, within seventy-two (72) hours after being served with the order, either:

27 (1) File ~~file~~ with the court a receipt showing the firearm(s) was ~~either~~ physically
28 surrendered to the Rhode Island state police or local police department, or to a licensed gun
29 dealer; or

30 (2) Attest to the court that, at the time of the order, the person had no firearms in their
31 immediate physical possession or control or subject to their immediate physical possession or
32 control, and that the person, at the time of the attestation, has no firearms in their immediate
33 physical possession or control or subject to their immediate physical possession or control.

34 ~~(f) an individual not legally prohibited from possessing a firearm who is not related to the~~

1 ~~defendant by blood, marriage, or relationship as defined by § 15-15-1(3), (4), or (5) or surrender~~
2 ~~to a licensed gun dealer within seventy two (72) hours after receiving the order.~~ Any defendant
3 transporting a firearm to surrender in accordance with this section ~~the above~~ shall not be liable to
4 prosecution under § 11-47-8.

5 (g) Any firearm surrendered in accordance with this section to the Rhode Island state
6 police or local police department shall be returned to the person formerly restrained under this
7 section upon their request when:

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

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

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

17 (h) The Rhode Island state police are authorized to develop rules and procedures
18 pertaining to the storage and return of firearms surrendered to the Rhode Island state police or
19 local police departments pursuant to this section. The Rhode Island state police may consult with
20 the Rhode Island Police Chiefs' Association in developing rules and procedures.

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

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

25 ~~(e)~~(k) 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 their employment to carry
30 a firearm in the performance of their duties. Any individual exempted pursuant to this exception
31 may possess a firearm only during the course of their employment. Any firearm required for
32 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 § 8-8.1-3.

34 ~~(e)~~(l) Any violation of the aforementioned protective order shall subject the defendant to

1 being found in contempt of court.

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

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

9 ~~(h)~~(o) Any violation of a protective order under this chapter of which the defendant has
10 actual notice shall be a misdemeanor which 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 ~~(h)~~(p) The penalties for violation of this section shall also include the penalties provided
13 under § 12-29-5.

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

16 ~~(h)~~(r) The district court shall have criminal jurisdiction over all violations of this chapter.

17 SECTION 2. Section 11-47-5 of the General Laws in Chapter 11-47 entitled "Weapons"
18 is hereby amended to read as follows:

19 **11-47-5. Possession of arms by person convicted of crime of violence or who is a**
20 **fugitive from justice.**

21 (a) No person ~~who has been convicted in this state or elsewhere of a crime of violence or~~
22 ~~who is a fugitive from justice~~ shall purchase, own, carry, transport, or have in his or her
23 possession any firearm. If that person:

24 (1) Has been convicted in this state or elsewhere of a crime of violence;

25 (2) Is a fugitive from justice;

26 (3) Has, in this state or elsewhere, entered a plea of nolo contendere to or been convicted
27 of an offense punishable as a felony under §12-29-5; or

28 (4) Has, in this state or elsewhere, entered a plea of nolo contendere to or been convicted
29 of any of the following offenses punishable as a misdemeanor under §12-29-5:

30 (i) Simple assault (§11-5-3);

31 (ii) Cyberstalking and cyberharassment (§11-52-4.2);

32 (iii) Violation of a protective order (as set forth in §12-29-2(a)(10); or

33 (iv) Disorderly conduct (§11-45-1).

34 (A) A disorderly conduct conviction shall result in prohibition under this section if and

1 only if the offense involves the use or attempted use of force or the threatened use of a dangerous
2 weapon.

3 (5) The provisions of this subsection shall apply to all persons who enter a plea of nolo
4 contendere to or have been convicted of any of the offenses specified in subsections (a)(3) and
5 (a)(4) of this section, unless and until that person's matter has been expunged, or upon the
6 completion of the sentence of a one-year filing, or the end of a one-year probationary period that
7 no longer constitutes a conviction pursuant to §12-18-3.

8 (b) ~~Notwithstanding the provisions of subsection (a) of this section, no~~ No person
9 ~~convicted of an offense punishable as a felony offense under § 12-29-5~~ shall purchase, own,
10 carry, transport, or have in his or her possession any firearm, ~~for a period of two (2) years~~
11 ~~following the date of that conviction.~~ if that person is subject to an order issued pursuant to
12 chapter 15 of title 15, chapter 8.1 of title 8, or an equivalent order in this state or elsewhere,
13 which order was issued after the person restrained has received notice of the proceedings and had
14 an opportunity to be heard.

15 (c) No person who is in community confinement pursuant to the provisions of § 42-56-
16 20.2 or who is otherwise subject to electronic surveillance or monitoring devices as a condition of
17 parole shall purchase, carry, transport, or have in his or her possession any firearm. This
18 subsection shall not apply to any person who has not been convicted of (or pleaded guilty or nolo
19 contendere to) a crime of violence in a court of competent jurisdiction.

20 (d) Every person violating the provisions of this section shall, upon conviction, be
21 punished by imprisonment for not less than two (2) nor more than ten (10) years; and for
22 penalties provided in this section he or she shall not be afforded the benefit of suspension or
23 deferment of sentence nor of probation.

24 SECTION 3. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended
25 by adding thereto the following section:

26 **11-47-5.4. Surrender of firearms after domestic violence offenses.**

27 (a) A plea of nolo contendere to, or a conviction shall prohibit the defendant from
28 purchasing, owning, carrying, transporting, or having in their possession any firearm. Upon such
29 a plea or conviction, the court shall order the defendant to surrender all firearms owned by the
30 person or in the person's possession as described in this section.

31 (1) Surrender shall be made within twenty-four (24) hours of prohibition to the Rhode
32 Island state police or local law enforcement or to a licensed gun dealer. The arresting law
33 enforcement agency shall be immediately notified by the court of the order to surrender firearms.
34 A law enforcement agency or licensed gun dealer taking possession of a firearm shall issue a

1 proof of surrender to the person surrendering the firearm. The proof of surrender must include the
2 name of the person, the date of surrender, and the serial number, manufacturer, and model of all
3 surrendered firearms.

4 (2) A defendant transporting a firearm to surrender in accordance with this section shall
5 not be liable to prosecution under §§11-47-5(d) or 11-47-8.

6 (3) The defendant shall, within forty-eight (48) hours after being served with the order,
7 either:

8 (i) File a copy of proof of surrender with the court of jurisdiction, and attest that all
9 firearms owned by the person or in the person's possession at the time of plea or conviction have
10 been surrendered in accordance with this section and that the person currently owns no firearms
11 and has no firearms in their possession; or

12 (ii) Attest that, at the time of plea or conviction, the person owned no firearms and had no
13 firearms in their possession, and that the person currently owns no firearms and has no firearms in
14 their possession.

15 (4) The court of jurisdiction's copy of proof of surrender shall be kept under seal and
16 shall not be part of the public record.

17 (5) The Rhode Island state police are authorized to develop rules, regulations and
18 procedures pertaining to the storage of firearms that are surrendered pursuant to this section. The
19 Rhode Island state police may consult with the Rhode Island Police Chiefs' Association in
20 developing rules and procedures. Law enforcement agencies and departments shall observe due
21 care in the receipt and storage of any firearm surrendered pursuant to this section. No law
22 enforcement agency shall dispose of any firearm surrendered pursuant to this section unless that
23 firearm is abandoned as provided in this section. The Rhode Island state police may consult with
24 the Rhode Island Police Chiefs' Association in developing rules and procedures.

25 (6) A firearm surrendered to the Rhode Island state police or a local police department
26 under this section shall be deemed abandoned if:

27 (i) Six (6) years have passed from the date of the completion of the defendant's sentence
28 for an offense enumerated in §11-47-5(a)(4); and

29 (ii) During the two (2) years following the six (6)-year period described in subsection
30 (a)(6)(i) of this section, the Rhode Island state police or local police department has provided
31 notice to the defendant, on at least two (2) separate occasions, that if the firearm is not reclaimed
32 it shall be disposed of; and

33 (iii) After the two (2)-year period described in subsection (a)(6)(ii) of this section and
34 after notice to the defendant, the defendant fails to reclaim the firearm.

1 [\(7\) The Rhode Island state police may dispose of an abandoned firearm at any time,](#)
2 [provided that no disposal shall occur while any appeal of the conviction for a crime enumerated](#)
3 [in §11-47-5\(a\)\(4\) is pending and provided that the owner of the firearm receives any financial](#)
4 [value generated from its disposal less the cost associated with disposing of the firearm.](#)

5 SECTION 4. Section 12-29-5 of the General Laws in Chapter 12-29 entitled "Domestic
6 Violence Prevention Act" is hereby amended to read as follows:

7 **12-29-5. Disposition of domestic violence cases. [Effective January 1, 2017.]**

8 (a) Every person convicted of, or placed on probation for, a crime involving domestic
9 violence or whose case is filed pursuant to § 12-10-12 where the defendant pleads nolo
10 contendere, in addition to any other sentence imposed or counseling ordered, shall be ordered by
11 the judge to attend, at his or her own expense, a batterer's intervention program appropriate to
12 address his or her violent behavior; provided, however, that the court may permit a
13 servicemember or veteran to complete any court-approved counseling program administered or
14 approved by the Veterans' Administration. This order shall be included in the conditions of
15 probation. Failure of the defendant to comply with the order shall be a basis for violating
16 probation and/or the provisions of § 12-10-12. This provision shall not be suspended or waived
17 by the court.

18 (b) Every person convicted of, or placed on probation for, a crime involving domestic
19 violence, as enumerated in § 12-29-2 or whose case if filed pursuant to § 12-10-12 where the
20 defendant pleads guilty or nolo contendere, in addition to other court costs or assessments
21 imposed, shall be ordered to pay a one hundred twenty-five dollar (\$125) assessment. Eighty
22 percent (80%) of the assessment collected pursuant to this section shall be provided to the Rhode
23 Island Coalition Against Domestic Violence for programs to assist victims of domestic violence
24 and twenty percent (20%) of the assessment shall be deposited as general revenue.

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

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

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

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

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

34 [\(d\) The court shall determine, for every person who pleads nolo contendere to or is](#)

1 convicted of an offense involving domestic violence, as enumerated in §12-29-2, whether, as a
2 result of the plea or conviction, the defendant is prohibited under §11-47-5(a)(3) or §11-47-
3 5(a)(4) from purchasing, owning, carrying, transporting, or having in their possession any
4 firearm.

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

8 (2) Prior to the entry of a plea of nolo contendere to an offense punishable as a felony
9 involving domestic violence, as enumerated in §12-29-2, or an offense enumerated in §11-47-
10 5(a)(4), the court shall advise the defendant that, in addition to any other sentence or penalty, the
11 defendant shall, as result of the plea, be prohibited from purchasing, owning, carrying,
12 transporting, or having in their possession any firearm under §11-47-5.

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

15 ~~(e)~~(e) For the purposes of this section, "batterers intervention program" means a program
16 which is certified by the batterers intervention program standards oversight committee according
17 to minimum standards, pursuant to §§ 12-29-5.1, 12-29-5.2, and 12-29-5.3.

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

23 ~~(g)~~(g) The court shall indicate on every record of conviction or a plea of nolo contendere
24 for an offense punishable as a felony involving domestic violence, as defined in § 12-29-2, that
25 the defendant is prohibited under §§ 11-47-5 and 11-47-5.3 from purchasing, owning, carrying,
26 transporting, or having in their possession, any firearm(s). The court shall inform the defendant of
27 their prohibited status and shall order the defendant to surrender any firearm(s) in their
28 ownership, possession, care, custody or control in accordance with § 11-47-5.3.

29 (h) The court shall indicate on every record of conviction or a plea of nolo contendere for
30 an offense enumerated in §11-47-5(a)(4) that the defendant is prohibited under §§11-47-5 and 11-
31 47-5.4 from purchasing, owning, carrying, transporting, or having in their possession, any
32 firearm(s). The court shall inform the defendant of their prohibited status, shall order the
33 defendant to surrender any firearm(s) in their ownership, possession, care, custody or control, and
34 shall ensure that surrender is made in accordance with §11-47-5.4.

1 ~~(e)~~(i) No proceeds shall be provided to any person if the firearm(s) is destroyed pursuant
2 to this section.

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

5 SECTION 5. Section 15-15-3 of the General Laws in Chapter 15-15 entitled "Domestic
6 Abuse Prevention" is hereby amended to read as follows:

7 **15-15-3. Protective orders -- Penalty -- Jurisdiction.**

8 (a) A person suffering from domestic abuse may file a complaint in the family court
9 requesting any order which will protect and support her or him from abuse including, but not
10 limited, to the following:

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

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

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

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

24 ~~(e)~~(b) After notice to the respondent and a hearing, the court in addition to any other
25 restrictions, ~~may shall, for any protective~~ order ~~the defendant~~ issued or renewed after July 1,
26 2017, order a person restrained under this section to surrender physical possession of all firearms
27 in his or her possession, care, custody or control.

28 ~~(b) Any individual who accepts physical possession of a firearm pursuant and shall~~
29 further order a person restrained under this section not to ~~this section is prohibited from returning~~
30 ~~any firearm purchase or receive or attempt~~ to purchase or receive any ~~defendant under a firearms~~
31 while the restraining order ~~during the existence of the restraining order. Violation of this~~
32 ~~provision shall subject both the defendant and the individual responsible for the return of the~~
33 ~~firearm to the defendant, to being found in contempt of court~~ is in effect.

34 (c) The Family Court shall provide a notice on all forms requesting a protective order

1 that, at the hearing for a protective order, ~~the defendant may~~ a person restrained under this section
2 shall be ordered pursuant to §11-47-5 to surrender physical possession or control of any firearms
3 and not to purchase or receive or attempt to purchase or receive any firearms ~~for a period not to~~
4 ~~exceed the duration of~~ while the restraining order is in effect.

5 (d) If ~~the defendant~~ a person restrained under this section is present in court at a duly
6 noticed hearing, the court ~~may~~ , in addition to any other restrictions, shall, for any protective
7 ~~order the defendant~~ issued or renewed on or after July 1, 2017, order a person restrained under
8 this section to physically surrender any ~~firearm~~ firearm(s) in that person's immediate physical
9 possession or control, or subject to that person's immediate physical possession or control, within
10 twenty-four (24) hours of the order, by surrendering the possession of the firearm(s) to the ~~control~~
11 ~~of any individual not legally prohibited from possessing a firearm(s) who is not related to the~~
12 ~~defendant by blood, marriage, or relationship as defined by § 15-15-1(3), (4), or (5), of the Rhode~~
13 ~~Island general laws, or by surrendering any firearm(s) to the Rhode Island State Police~~ Rhode
14 Island state police or local police department, or by surrendering the firearm(s) to a licensed gun
15 dealer. At any hearing on a petition for a protective order in which the person to be restrained
16 appears, the court shall inform the respondent before any agreement to have an order entered by
17 consent and with or without any findings of fact, that the respondent shall be subject to the
18 surrender of firearms provisions of this section. If ~~the defendant~~ a person restrained under this
19 section is not present at the hearing, the ~~defendant~~ person restrained under this order shall
20 surrender ~~possession of~~ the firearm(s) within forty-eight (48) hours after being served with the
21 order. ~~A person ordered to surrender possession of any firearm(s) pursuant to this subsection shall~~
22 ~~file with the court a receipt showing the firearm(s) was either legally transferred to an individual~~
23 ~~not legally prohibited from possessing a firearm who is not related to the defendant by blood,~~
24 ~~marriage, or relationship as defined by § 15-15-1(3), (4), or (5) of the Rhode Island general laws~~
25 ~~or surrender to a licensed gun dealer within seventy-two (72) hours after receiving the order. Any~~
26 ~~defendant transporting a firearm to surrender in accordance with the above shall not be liable to~~
27 ~~prosecution under § 11-47-8.~~

28 (e) A person ordered to surrender possession of any firearm(s) pursuant to this subsection
29 shall, within seventy-two (72) hours after being served with the order, either:

30 (1) File with the court a receipt showing the firearm(s) was physically surrendered to the
31 Rhode Island state police or local police department or to a licensed gun dealer; or

32 (2) Attest to the court that, at the time of the order, the person had no firearms in their
33 immediate physical possession or control or subject to their immediate physical possession or
34 control, and that the person, at the time of the attestation, has no firearms in their immediate

1 physical possession or control or subject to their immediate physical possession or control.

2 (f) Any defendant transporting a firearm to surrender in accordance with this section shall
3 not be liable to prosecution under § 11-47-5(d) or §11-47-8.

4 (g) Any firearm surrendered pursuant to this section to the Rhode Island state police or a
5 local police department shall be returned to the person formerly restrained under this section upon
6 their request when:

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

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

14 (h) The Rhode Island state police are authorized to develop rules and procedures
15 pertaining to the storage and return of firearms surrendered to the Rhode Island state police or
16 local police departments pursuant to this section. The Rhode Island state police may consult with
17 the Rhode Island Police Chiefs' Association in developing said rules and procedures.

18 (i) Should the law enforcement agency in possession of the firearm fail to return the
19 firearm upon the expiration of the protective order, the respondent may file a petition with the
20 family court for relief. No filing fee shall be charged for the filing of a motion seeking relief
21 under this section.

22 (j) The family court shall schedule a hearing on a motion seeking relief under this section
23 no later than thirty (30) days from the date the motion is filed. The family court shall only
24 consider whether the protective order has expired, without extension, and that no intervening
25 legal prohibition exists to prevent the respondent from recovering their firearms.

26 (k) If the family court determines that the person is eligible for relief under this section,
27 the court shall grant the motion and lift the firearm prohibition. If the court lifts a person's firearm
28 prohibition pursuant to this section, the court shall issue the person written notice that the person
29 is no longer prohibited from purchasing, owning, carrying, transporting, or having in their
30 possession any firearm under this section.

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

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

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

10 ~~(o)~~ Upon motion by the plaintiff, his or her address shall be released only at the
11 discretion of the family court judge.

12 ~~(p)~~ (1) Any violation of the protective orders in subsection (a) of this section shall
13 subject the defendant to being found in contempt of court.

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

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

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

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

26 ~~(s)~~ (1) The district court shall have criminal jurisdiction over all adult violations of this
27 chapter.

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

29 SECTION 6. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended
30 by adding thereto the following section:

31 **11-47-5.5. Motion to lift firearms prohibition for persons convicted of specified**
32 **misdemeanor domestic violence offenses -- Consecutive prohibitions -- Return of**
33 **surrendered firearms.**

34 (a) A person prohibited from purchasing, owning, carrying, transporting, or having in

1 their possession any firearm solely because of a plea of nolo contendere to or a conviction of an
2 offense enumerated in §11-47-5(a)(4) may file a motion in the district court to have that firearm
3 prohibition lifted in accordance with this section. A person who is otherwise prohibited under
4 state law from purchasing, owning, carrying, transporting, or having in their possession any
5 firearm shall not be eligible for relief under this section.

6 (b) Except for those cases where the defendant is eligible to reclaim firearms after the one
7 year completion of a filing or probation under §12-18-3, a person shall become eligible to file a
8 motion seeking relief under this section after five (5) years from the date of the completion of his
9 or her sentence, unless, during that five (5)-year period, the person enters a plea of nolo
10 contendere to or is convicted of any new offense enumerated in §11-47-5(a)(4).

11 (1) A person already prohibited from purchasing, owning, carrying, transporting, or
12 having in their possession any firearm under §11-47-5(a)(4) who pleads nolo contendere to or is
13 convicted of any new offense enumerated in §11-47-5(a)(4) shall be subject to an additional six
14 (6)-year firearm prohibition under §11-47-5(a)(4). That additional prohibition shall run
15 consecutively to the prohibition already in effect at the time the person pleaded nolo contendere
16 to or was convicted of the new offense.

17 (2) A person made subject to consecutive firearms prohibitions in accordance with this
18 subsection shall not become eligible to file a motion seeking relief under this section until their
19 consecutive prohibition periods have fully elapsed.

20 (c) No filing fee shall be charged for the filing of a motion seeking relief under this
21 section.

22 (d) The district court shall schedule a hearing on a motion seeking relief under this
23 section no later than thirty (30) days from the date the motion is filed.

24 (e) The district court shall only consider whether the required amount of time to retrieve
25 the firearms has expired, and that no other legal prohibition exists to prevent the respondent from
26 recovering his or her firearms. If the court determines that the person is eligible for relief under
27 this section, the court shall grant the motion and lift the firearm prohibition. If the court lifts a
28 person's firearm prohibition pursuant to this section, the court shall issue the person written notice
29 that the person is no longer prohibited from purchasing, owning, carrying, transporting, or having
30 in their possession any firearm under §11-47-5(a)(4).

31 (f) A firearm surrendered to the Rhode Island state police or a local police department by
32 a person formerly prohibited under §11-47-5(a)(4) who is granted relief under this section shall
33 be returned to the person upon their request when:

34 (1) The person formerly prohibited under §11-47-5(a)(4) provides written proof issued by

1 the court indicating that the firearm prohibition has been lifted pursuant to this section; and

2 (2) The Rhode Island state police or a local police department determines that the person
3 formerly prohibited under §11-47-5(a)(4) is not otherwise prohibited from possessing a firearm
4 under state or federal law.

5 (g) A court's grant of relief pursuant to this section shall not constitute an expungement,
6 nor shall it in any way impact, negate, or otherwise modify the person's prior conviction of an
7 offense enumerated in §11-47-5(a)(4).

8 SECTION 7. This act shall take effect upon passage.

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LC001499/SUB A/2
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO COURTS AND CIVIL PROCEDURE--COURTS -- DOMESTIC ASSAULT -
PROTECT RHODE ISLAND FAMILIES ACT

- 1 This act would limit access to firearms when an individual is under certain types of
- 2 domestic restraining orders or protective orders issued or renewed on or after July 1, 2017.
- 3 This act would take effect upon passage.

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LC001499/SUB A/2
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