

2014 -- S 2719

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO DOMESTIC RELATIONS -- DOMESTIC ABUSE PREVENTION

Introduced By: Senators Goodwin, Goldin, Ciccone, Metts, and Miller

Date Introduced: March 05, 2014

Referred To: Senate Judiciary

(by request)

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 15-15-5 of the General Laws in Chapter 15-15 entitled "Domestic
2 Abuse Prevention" is hereby amended to read as follows:

3 **15-15-5. Duties of police officers.** -- (a) Whenever any police officer has reason to
4 believe that a family member or parent has been abused, that officer shall use all reasonable
5 means to prevent further abuse, including:

6 (1) Remaining on the scene as long as there is a danger to the physical safety of the
7 person or until the person is able to leave the dwelling unit;

8 (2) Assisting the person in obtaining medical treatment necessitated by an assault,
9 including obtaining transportation to an emergency medical treatment facility;

10 (3) Giving the person immediate and adequate notice of his or her rights under this
11 chapter;

12 (4) Arresting the abusive person pursuant to the arrest provisions in section 12-29-3; ~~and~~

13 (5) Reporting any physical injury to a minor child or a threat to physically injure a minor
14 child within twenty-four (24) hours of his or her investigation to CANTS (Child abuse and
15 neglect tracking system); ~~and~~

16 (6) Temporarily seize any weapon that is alleged to have been used, or threatened to be
17 used, by the alleged abuser in the commission of alleged domestic abuse, or in the alleged
18 abuser's control, ownership, or possession if said weapon is in plain view, or was found pursuant
19 to consent to search. For purposes of this section "weapon" means any firearm, ammunition, or

1 other deadly weapon.

2 (i) If a weapon is seized under subsection (a)(6) of this section, the police officer shall
3 provide for the safe storage of the weapon at the police station during the pendency of the
4 criminal proceeding related to the alleged act of domestic abuse.

5 (ii) Said seized weapon shall not be returned to any individual convicted of any crime
6 involving domestic abuse, pursuant to 18 U.S.C. 922(g)(9).

7 (iii) Said seized weapon shall not be returned to any individual who pleads nolo
8 contendere to any crime involving domestic abuse.

9 (iv) Said seized weapon shall immediately be returned at the conclusion of the criminal
10 proceeding related to the alleged act of domestic abuse if the person is acquitted after trial, or if
11 such charges are dismissed.

12 (v) The lawful owner of a seized weapon may petition the court with jurisdiction over the
13 criminal proceeding related to the alleged act of domestic abuse for the return of a seized weapon,
14 prior to the resolution of that criminal proceeding. The court shall conduct a hearing on the lawful
15 owner's petition within seven (7) days of the filing of said petition. The court may order the return
16 of a seized weapon provided that the court makes a determination that:

17 (A) The lawful owner is not the defendant in the pending criminal proceedings related to
18 the alleged act of domestic abuse; and

19 (B) The return of the weapon would not pose a danger to the alleged victim, the person
20 who reported the alleged assault, or any other person in the household.

21 (vi) Police shall notify the alleged victim of domestic abuse at least twenty-four (24)
22 hours prior to the return of any seized weapon.

23 (vii) A police officer shall not be liable for any act or omission made in the good faith
24 exercise of the officer's duties under this section.

25 (b) Notice by the police officer to the victim shall be by handing the victim a copy of the
26 following statement written in English, Portuguese, Spanish, Cambodian, Hmong, Laotian,
27 Vietnamese, and French, and by reading the statement to the person when possible:

28 SPOUSE, FORMER SPOUSE, BLOOD RELATIVE, CHILDREN IN COMMON,
29 MINORS IN SUBSTANTIVE DATING OR ENGAGEMENT RELATIONSHIP.

30 "If your attacker is your spouse, former spouse, or person to whom you are related by
31 blood or marriage, or if you are not married to your attacker but have a child in common, or if
32 you and/or your attacker is a minor who have been in a substantive dating or engagement
33 relationship within the past six (6) months, you have the right to go to the family court and
34 request:

1 "(1) An order restraining your attacker from abusing you or your minor child;

2 "(2) An order awarding you exclusive use of your marital domicile;

3 "(3) An order awarding you custody of your minor child."

4 UNMARRIED/NOT RELATED COHABITANTS WITHIN THE PAST THREE
5 YEARS, OR HAVE BEEN IN A SUBSTANTIVE DATING OR ENGAGEMENT
6 RELATIONSHIP WITHIN THE PAST SIX (6) MONTHS

7 "If you are not married or related to your attacker, but have resided with him or her
8 within the past three (3) years, or you are in or have been in a substantive dating or engagement
9 relationship with your attacker within the past six (6) months, you have the right to go to the
10 district court and request:

11 "(1) An order restraining your attacker from abusing you;

12 "(2) An order directing your attacker to leave your household, unless he or she has the
13 sole legal interest in the household."

14 ADDITIONAL RIGHTS.

15 "If you are in need of medical treatment, you have the right to have the officer present
16 obtain transportation to an emergency medical treatment facility.

17 "If you believe that police protection is needed for your physical safety, you have the
18 right to have the officer present remain at the scene until you and your children can leave or until
19 your safety is otherwise ensured.

20 "You have the right to file a criminal complaint with the responding officer or your local
21 police department if the officer has not arrested the perpetrator."

22 (c) A police officer shall ensure enforcement of the terms of a protective order issued
23 pursuant to this chapter including, but not limited to, accompanying a family member or parent to
24 his or her dwelling or residence in order to secure possession of the dwelling or residence.

25 (d) When service of the temporary order issued pursuant to section 15-15-4 has not been
26 made and/or after a permanent order is entered, a police officer shall give notice of the order to
27 the defendant by handing him or her a certified copy of the order. The officer shall indicate that
28 he or she has given notice by writing on plaintiff's copy of the order and the police department's
29 copy of the order, the date and time of giving notice and the officer's name and badge number.
30 The officer shall indicate on the offense report that actual notice was given.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would authorize police officers to seize weapons from the scene of alleged
2 instances of alleged domestic abuse. The act would set forth provisions for the return of seized
3 weapons depending on the resolution of the criminal proceeding, with notice to the victim of
4 domestic assault.

5 This act would take effect upon passage.

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