

2015 -- S 0523

=====
LC000384
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

—————
A N A C T

RELATING TO HEALTH AND SAFETY

Introduced By: Senators Miller, and Goldin

Date Introduced: February 26, 2015

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 23 of the General Laws entitled "Health and Safety" is hereby
2 amended by adding thereto the following section:

3 **23-94-1. Seizure of weapons from person posing substantial risk of serious harm.--**

4 (a) For purposes of this section a "weapon" means any firearm, ammunition, or other deadly
5 weapon.

6 (b) A police officer may immediately, without a warrant, seize any weapon found in the
7 possession, custody, or control of any person the officer has reason to believe and does believe
8 poses a substantial risk of serious harm to the person or to others.

9 (c) A substantial risk of serious harm may be demonstrated by:

10 (1) The person's behavior; or

11 (2) Evidence of severe emotional distress or deterioration in a person's mental condition.

12 (d) A police officer may form the belief that the person poses a substantial risk of serious
13 harm from:

14 (1) A representation of a credible person; or

15 (2) On the basis of the conduct of the person as observed by the police officer, or the
16 circumstances under which the person is found.

17 (e) If a weapon is seized under this section, the police officer shall immediately provide
18 the person a written copy of a receipt for the firearm and a written notice of the procedure for the
19 return of said weapon.

1 (f) If a weapon is seized under this section, the police officer shall provide for the safe
2 storage of the weapon at the police station pending review by the superior court pursuant to
3 subsection (h) of this section.

4 (g) If a police officer seizes a weapon pursuant to this section, the police officer shall,
5 within twenty-four (24) hours of the seizure, submit to the superior court having jurisdiction over
6 the city or town in which the seizure occurred a written statement under oath or affirmation
7 describing the basis for the police officer's belief that the person poses a substantial risk of serious
8 harm to the person or others and a description of the weapon seized.

9 (h) After review of the written statement submitted under subsection (g) of this section,
10 the court shall conduct a hearing not later than seven (7) days after the submission thereof, to
11 determine if probable cause exists to believe that the person from whom the weapon was seized
12 poses a substantial risk of serious harm to the person or to others. The person from whom the
13 weapon was seized and the lawful owner of the seized weapon have a right be heard at such
14 hearing. The police officer who made such seizure shall appear for said hearing.

15 (i) If the court finds that probable cause exists to believe that the person poses a
16 substantial risk of serious harm to the person or to others, the court shall order the police
17 department having custody of the weapon to retain the same for a period of one hundred and
18 eighty (180) days. At the expiration of one hundred and eighty (180) days, the lawful owner of
19 the seized weapon may petition the superior court for its return.

20 (ii) If the court finds that there is no probable cause to believe that the person poses a
21 substantial risk of serious harm to the person or to others, the court shall order the police
22 department having custody of the weapon to immediately return the same.

23 (i) If the seized weapon is lawfully owned by someone other than the person from whom
24 it was seized, the court shall, upon motion of the lawful owner, order the police department
25 having custody of the weapon, to immediately return the same to such lawful owner, unless the
26 court determines such return will pose a threat to public safety.

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

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

=====
LC000384
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HEALTH AND SAFETY

- 1 This act would allow police officers to seize weapons, without a warrant, from
- 2 individuals that they determine to pose a substantial risk of serious harm to themselves or others.
- 3 This act would also provide for procedures for the review of the seizure by the superior court.
- 4 This act would take effect upon passage.

=====
LC000384
=====