

2016 -- S 2492 SUBSTITUTE A

LC004255/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Senators Coyne, Nesselbush, Paiva Weed, Conley, and Goodwin

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended
2 by adding thereto the following section:

3 **11-47-5.3. Surrender of firearms by persons convicted of domestic violence offenses.**

4 == (a) Pleading nolo contendere to or conviction of an offense under §12-29-2 which is punishable
5 as a felony shall prohibit the defendant from purchasing, owning, carrying, transporting, or
6 having in their possession or control any firearm. Upon such a plea or conviction, the court shall
7 issue an order declaring that the defendant surrender all firearm(s) owned by the defendant, or in
8 the defendant's possession, care, custody or control as described in this section.

9 (1) Surrender shall be made within twenty-four (24) hours of prohibition to a law
10 enforcement agency or to a federally licensed firearms dealer. The arresting law enforcement
11 agency shall be immediately notified of the order to surrender firearm(s). A law enforcement
12 agency or federally licensed firearms dealer taking possession of a firearm(s) shall issue proof of
13 surrender to the person surrendering the firearm(s). The proof of surrender shall include the name
14 of the person, the name of the law enforcement agency or federally licensed firearms dealer, the
15 date of surrender, the serial number, the manufacturer, and model of all surrendered firearm(s).

16 (2) The defendant may transport their firearm(s) during the twenty-four (24) hour
17 surrender period directly to the law enforcement agency or federally licensed firearms dealer
18 provided that the firearm(s) is broken down, unloaded and carried as openly as circumstances will
19 permit, or provided that the pistols or revolvers are unloaded and secured in a separate container

1 suitable for the purpose.

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

4 (i) File a copy of proof of surrender with the court and attest that all firearm(s) owned by
5 the defendant or in the defendant's possession, care, custody or control at the time of the plea or
6 conviction have been surrendered in accordance with this section and that the defendant currently
7 owns no firearm(s) or has any firearm(s) in their care, custody or control; or

8 (ii) Attest that, at the time of the plea or conviction, the defendant owned no firearm(s)
9 and had no firearm(s) in their care, custody or control, and that the defendant currently owns no
10 firearm(s) and has no firearm(s) in their possession, care, custody or control.

11 (4) The list of firearm(s) surrendered shall be kept under seal and shall not be part of the
12 public record.

13 (5)(i) If the defendant chooses to surrender a firearm(s) to a law enforcement agency, the
14 law enforcement agency shall follow the policies established by the police officer's commission
15 on standards and training for the return or disposal of the firearm(s).

16 (ii) The police officer's commission on standards and training shall establish policies for
17 the return or disposal of firearms that are surrendered pursuant to any court order provided that
18 such policies require that the defendant be notified of the return or disposal, and that the owner
19 receive any financial value received from the disposal, less the cost associated with taking
20 possession of, storing, and disposing of the firearm(s) and provided that no disposal shall occur
21 while any appeal of the conviction is pending.

22 (6) If the defendant, or their designee, transfers a firearm(s) to a federally licensed
23 firearms dealer pursuant to this section the defendant may instruct the federally licensed firearms
24 dealer to sell the firearm(s) or to transfer ownership pursuant to state and federal law to a
25 qualified named individual who is not a member of the defendant's dwelling house. The owner of
26 any firearm(s) sold shall receive any financial value received from their sale, less the cost
27 associated with taking possession of, storing and transferring of the firearm(s).

28 (7) Every individual to whom ownership of a firearm(s) is transferred pursuant to this
29 section shall be prohibited from transferring or returning any firearm(s) to the defendant and shall
30 be informed of this prohibition.

31 (i) Any knowing violation of subsection (a)(7) of this section is a felony which shall be
32 punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for a
33 term of not less than one year and not more than five (5) years, or both.

34 SECTION 2. Section 12-29-5 of the General Laws in Chapter 12-29 entitled "Domestic

1 Violence Prevention Act" is hereby amended to read as follows:

2 **12-29-5. Disposition of domestic violence cases.** -- (a) Every person convicted of or
3 placed on probation for a crime involving domestic violence or whose case is filed pursuant to §
4 12-10-12 where the defendant pleads nolo contendere, in addition to any other sentence imposed
5 or counseling ordered, shall be ordered by the judge to attend, at his or her own expense, a
6 batterer's intervention program appropriate to address his or her violent behavior; provided,
7 however, that the court may permit a servicemember or veteran to complete any court-approved
8 counseling program administered or approved by the Veterans' Administration. This order shall
9 be included in the conditions of probation. Failure of the defendant to comply with the order shall
10 be a basis for violating probation and/or the provisions of § 12-10-12. This provision shall not be
11 suspended or waived by the court.

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

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

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

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

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

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

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

31 (e) For purposes of this section, "servicemember" means a person who is presently
32 serving in the armed forces of the United States including the Coast Guard, a reserve component
33 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,
34 including the Coast Guard of the United States, a reserve component thereof, or the National

1 Guard, and has been discharged under other than dishonorable conditions.

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

8 (g) No proceeds shall be provided to any person if the firearm(s) is destroyed pursuant to
9 this section.

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

12 SECTION 3. This act shall take effect on January 1, 2017.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO CRIMINAL OFFENSES -- WEAPONS

1 This act would require that any person convicted of a felony domestic offense be ordered
2 by the court to surrender all firearm(s) in their possession, care, custody or control to either the
3 state or local police, or federally licensed firearms dealer and that they file proof of surrender of
4 those firearms with the court having jurisdiction over the case.

5 This act would take effect on January 1, 2017.

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