

2017 -- H 5115 SUBSTITUTE A

LC000553/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CRIMINAL OFFENSES -- GENERAL PROVISIONS

Introduced By: Representatives Ajello, Regunberg, Knight, Blazejewski, and Craven

Date Introduced: January 13, 2017

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 11-5-2 of the General Laws in Chapter 11-5 entitled "Assaults" is  
2 hereby amended to read as follows:

3 **11-5-2. ~~Felony assault~~ Assault with a dangerous weapon.**

4 (a) Every person who shall make an assault or battery, or both, with a dangerous weapon,  
5 or with acid or other dangerous substance, or by fire, or an assault or battery which results in  
6 serious bodily injury, shall be punished by imprisonment for not more than twenty (20) years.

7 (b) Where the provisions of "The Domestic Violence Prevention Act", chapter 29 of title  
8 12, are applicable, the penalties for violation of this section shall also include the penalties as  
9 provided in § 12-29-5.

10 (c) ~~"Serious bodily injury" means physical injury that:~~

11 (1) ~~Creates a substantial risk of death;~~

12 (2) ~~Causes protracted loss or impairment of the function of any bodily part, member or~~  
13 ~~organ; or~~

14 (3) ~~Causes serious permanent disfigurement or circumcises, excises or infibulates the~~  
15 ~~whole or any part of the labia majora or labia minora or clitoris of a person.~~

16 SECTION 2. Chapter 11-5 of the General Laws entitled "Assaults" is hereby amended by  
17 adding thereto the following section:

18 **11-5-2.4. Felony assault.**

19 (a) Every person who shall make an assault or battery which results in serious bodily

1 injury or bodily injury shall be guilty of felony assault.

2 (b) For the purposes of this section, the following definitions shall apply:

3 (1) "Serious bodily injury" means physical injury that:

4 (i) Creates a substantial risk of death;

5 (ii) Causes protracted loss or impairment of the function of any bodily part, member or  
6 organ; or

7 (iii) Causes serious permanent disfigurement or circumcises, excises or infibulates the  
8 whole or any part of the labia majora or labia minora or clitoris of a person.

9 (2) "Bodily injury" means physical injury, illness, or any impairment of physical  
10 condition other than serious bodily injury.

11 (c) Any person who shall make an assault or battery or both that results in serious bodily  
12 injury shall, upon conviction, be subject to imprisonment for up to twenty (20) years.

13 (d) Any person who shall make an assault or battery or both that results in bodily injury  
14 shall, upon conviction, be subject to imprisonment for up to six (6) years.

15 (e) Where the provisions of chapter 29 of title 12, the "domestic violence prevention act",  
16 are applicable, the penalties for violation of this section shall also include the penalties as  
17 provided in §12-29-5.

18 SECTION 3. Section 11-41-5 of the General Laws in Chapter 11-41 entitled "Theft,  
19 Embezzlement, False Pretenses, and Misappropriation" is hereby amended to read as follows:

20 **11-41-5. Penalties for larceny.**

21 (a) Any person convicted of any offense under §§ 11-41-1 -- 11-41-6, except § 11-41-3,  
22 ~~if shall be punished as follows, according to~~ the value of the property or money stolen, received,  
23 embezzled, fraudulently appropriated, converted, or obtained, received, taken, or secreted by false  
24 pretenses or otherwise with intent to cheat, defraud, embezzle, or fraudulently convert;

25 (1) If the value exceeds one thousand five hundred dollars (\$1,500), and is less than five  
26 thousand dollars (\$5,000), by imprisonment for not more than three (3) years or by a fine of not  
27 more than one thousand five hundred dollars (\$1,500), or both;

28 (2) If the value exceeds five thousand dollars (\$5,000), but is less than ten thousand  
29 dollars (\$10,000), by imprisonment for not more than six (6) years or by a fine of not more than  
30 three thousand dollars (\$3,000), or both; and

31 (3) If the value exceeds ten thousand dollars (\$10,000), or if the property is a firearm as  
32 defined in § 11-47-5.1, regardless of its value, the person shall be punished by imprisonment for  
33 not more than ten (10) years or by a fine of not more than five thousand dollars (\$5,000), or both.  
34 If the value of the property or money does not exceed one thousand five hundred dollars (\$1,500),

1 the person shall be punished by imprisonment for not more than one year, or by a fine of not more  
2 than five hundred dollars (\$500), or both. Any person convicted of an offense under § 11-41-2  
3 who shall be found to have knowingly obtained the property from a person under eighteen (18)  
4 years of age, notwithstanding the value of the property or money, shall be punished by  
5 imprisonment for not more than ten (10) years or by a fine of not more than five thousand dollars  
6 (\$5,000), or both.

7 (b) Any person convicted of an offense in violation of §§ 11-41-1 -- 11-41-7, except §  
8 11-41-3, which involves a victim who is a person sixty-five (65) years of age or older at the time  
9 of the offense and which involves property or money stolen, received, embezzled, fraudulently  
10 appropriated, converted, or obtained, received, taken, or secreted by false pretenses or otherwise  
11 with intent to cheat, defraud, embezzle, or fraudulently convert, with a value in excess of five  
12 hundred dollars (\$500), shall be punished by imprisonment for not less than two (2) years but not  
13 more than fifteen (15) years or by a fine of not more than five thousand dollars (\$5,000), or both.  
14 If the value of the property or money does not exceed five hundred dollars (\$500), the person  
15 shall be punished by imprisonment for not less than one year but not more than five (5) years or  
16 by a fine of not more than three thousand dollars (\$3,000), or both.

17 SECTION 4. Section 12-29-2 of the General Laws in Chapter 12-29 entitled "Domestic  
18 Violence Prevention Act" is hereby amended to read as follows:

19 **12-29-2. Definitions.**

20 (a) "Domestic violence" includes, but is not limited to, any of the following crimes when  
21 committed by one family or household member against another:

- 22 (1) Simple assault (§ 11-5-3);
- 23 (2) Felony assaults (~~chapter 5 of title 11~~) ([§§11-5-1, 11-5-2, 11-5-2.4 and 11-5-4](#));
- 24 (3) Vandalism (§ 11-44-1);
- 25 (4) Disorderly conduct (§ 11-45-1);
- 26 (5) Trespass (§ 11-44-26);
- 27 (6) Kidnapping (§ 11-26-1);
- 28 (7) Child-snatching (§ 11-26-1.1);
- 29 (8) Sexual assault (§§ 11-37-2, 11-37-4);
- 30 (9) Homicide (§§ 11-23-1 and 11-23-3);
- 31 (10) Violation of the provisions of a protective order entered pursuant to § 15-5-19,  
32 chapter 15 of title 15, or chapter 8.1 of title 8 where the respondent has knowledge of the order  
33 and the penalty for its violation, or a violation of a no contact order issued pursuant to § 12-29-4;
- 34 (11) Stalking (chapter 59 of title 11);

- 1 (12) Refusal to relinquish or to damage or to obstruct a telephone (§ 11-35-14);  
2 (13) Burglary and Unlawful Entry (chapter 8 of title 11);  
3 (14) Arson (chapter 4 of title 11);  
4 (15) Cyberstalking and cyberharassment (§ 11-52-4.2);  
5 (16) Domestic assault by strangulation § 11-5-2.3; and  
6 (17) Electronic tracking of motor vehicles (§ 11-69-1).

7 (b) "Family or household member" means spouses, former spouses, adult persons related  
8 by blood or marriage, adult persons who are presently residing together or who have resided  
9 together in the past three (3) years, and persons who have a child in common regardless of  
10 whether they have been married or have lived together, or persons who are, or have been, in a  
11 substantive dating or engagement relationship within the past one year which shall be determined  
12 by the court's consideration of the following factors:

- 13 (1) The length of time of the relationship;  
14 (2) The type of the relationship;  
15 (3) The frequency of the interaction between the parties.

16 (c) "Protective order" means an order issued pursuant to § 15-5-19, chapter 15 of title 15,  
17 or chapter 8.1 of title 8.

18 (d) "Victim" means a family or household member who has been subjected to domestic  
19 violence.

20 SECTION 5. This act shall take effect on January 1, 2018.

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

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1           This act would establish separate offenses for assault with a dangerous weapon and  
2 felony assault, and would differentiate between bodily injury and serious bodily injury for  
3 purposes of penalties for felony assault. The act would also amend the penalties for larceny based  
4 on the value of property stolen.

5           This act would take effect on January 1, 2018.

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