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1998 Survey of Rhode Island Law: Legislation: Criminal Procedure: An Act Relating to Criminal Procedure - Elderly Violence Prevention

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Criminal Procedure. *An Act Relating to Criminal Procedure - Elderly Violence Prevention.* Seeks to prevent violence against the elderly, specifically those age sixty and older, through the utilization of the law and those responsible for enforcing it. The Act does this by: (1) providing for arrest of individuals committing acts of violence against the elderly even in the absence of arrest warrants, (2) not allowing arrests to be dictated solely by the desires of the elderly victims, (3) mandating officer assistance to victims, (4) removing civil liability from law enforcement officers under certain circumstances, (5) providing for no-contact orders, and (6) criminalizing the violation of no-contact orders. Effective, July 21, 1998. 1998 R.I. Pub. Laws ch. 416.

This Legislation (the Act) amends Title 12 of the Rhode Island General Laws. The Act's stated purpose is to emphasize the gravity of violent crimes perpetrated on the elderly and to provide elderly victims of such crimes with the most security the law can afford.¹ The role of law enforcement officers and the courts is to use the law to protect elderly violence victims and to send a clear message to the rest of society that such behavior is intolerable.²

The Act allows law enforcement officials to arrest an individual they believe has carried out a violent act against an elderly person in numerous situations.³ An officer may arrest with probable cause, but without an arrest warrant, any individual who has committed felony assault, assault resulting in physical injury (whether or not the injury is visible to the officer), an act intended to instill apprehension of immediate and serious bodily harm or death, or a violation of a variety of court imposed orders.⁴ An officer's determination of whether or not to arrest a particular individual is not to be conditioned on the victim's approval, the victim's request, or even the victim's relationship to the alleged perpetrator of the violent crime.⁵

Regardless of whether or not an officer arrests an alleged perpetrator, the officer has certain responsibilities that he or she must

1. See R.I. Gen. Laws § 12-29.1-2(a) (1956) (1994 Reenactment & Supp. 1998).

2. See *id.* § 12-29.1-2(b).

3. See *id.* § 12-29.1-4(b)(1).

4. See *id.* § 12-29.1-4(b)(1)(i)-(v).

5. See *id.* § 12-29.1-4(b)(2)(i)-(iii).

fulfill.⁶ An officer must inform the elderly victim that he or she has the absolute right to file a criminal complaint against the offending individual.⁷ An officer must also obtain an arrest warrant if probable cause exists.⁸

An officer has certain obligations with regard to providing an elderly victim with assistance.⁹ An officer must help an elderly victim obtain necessary medical attention.¹⁰ Similarly, an officer must provide an elderly victim with transportation, if necessary to obtaining such medical attention.¹¹

In addition, the Act shields officers from civil liability for false arrests.¹² An officer is protected so long as the officer acted with probable cause in the case of an arrest and good faith in the case of the execution of a court order.¹³

The Act acknowledges that crimes against the elderly are usually not isolated incidents.¹⁴ In fact, the possibility of repeated violence is something that courts are well aware of.¹⁵ As a result, the Act provides that individuals cannot be released "on bail or personal recognizance before arraignment without first appearing before the court or bail commissioner."¹⁶ Both courts and bail commissioners are mandated to issue a no-contact order before releasing an individual.¹⁷ A no-contact order forbids the individual "from having contact with the victim."¹⁸ Similarly, courts and bail commissioners are entitled to issue or extend the duration of no-contact orders during the individual's arraignment or bail hearing.¹⁹

The intentional violation of a no-contact order is itself a crime.²⁰ It is classified as a misdemeanor.²¹ For that reason, an

6. *See id.* § 12-29.1-4(b)(4).

7. *See id.*

8. *See id.*

9. *See id.* § 12-29.1-4(d).

10. *See id.*

11. *See id.*

12. *See id.* § 12-29.1-4(c).

13. *See id.*

14. *See id.* § 12-29.1-5(a)(1).

15. *See id.*

16. *Id.*

17. *See id.*

18. *Id.*

19. *See id.* § 12-29.1-5(a)(2).

20. *See id.* § 12-29.1-5(a)(3).

21. *See id.*

individual issued a no-contact order must have actual notice (through writing in the court order) that such violation can and will result in arrest.²²

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22. *See id.*