

**Maine Revised Statute Title 19-A, Chapter 101: PROTECTION FROM ABUSE  
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## 19-A §4001. PURPOSES

The court shall liberally construe and apply this chapter to promote the following underlying purposes: [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

**1. Recognition.** To recognize domestic abuse as a serious crime against the individual and society, producing an unhealthy and dangerous family environment, resulting in a pattern of escalating abuse, including violence, that frequently culminates in intrafamily homicide and creating an atmosphere that is not conducive to healthy childhood development;

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**2. Protection.** To allow family and household members who are victims of domestic abuse to obtain expeditious and effective protection against further abuse so that the lives of the nonabusing family or household members are as secure and uninterrupted as possible;

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Enforcement.** To provide protection by promptly entering and diligently enforcing court orders that prohibit abuse and, when necessary, by reducing the abuser's access to the victim and addressing related issues of parental rights and responsibilities and economic support so that victims are not trapped in abusive situations by fear of retaliation, loss of a child or financial dependence;

[ 2001, c. 273, §2 (AMD) .]

**4. Prevention.** To expand the power of the justice system to respond effectively to situations of domestic abuse, to clarify the responsibilities and support the efforts of law enforcement officers, prosecutors and judicial officers to provide immediate, effective assistance and protection for victims of abuse and to recognize the crucial role of law enforcement officers in preventing further incidents of abuse and in assisting the victims of abuse;

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**5. Data collection.** To provide for the collection of data concerning domestic abuse in an effort to develop a comprehensive analysis of the incidence and causes of that abuse; and

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**6. Mutual order.** To declare that a mutual order of protection or restraint undermines the purposes of this chapter.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 273, §2 (AMD).

## 19-A §4002. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

**1. Abuse.** "Abuse" means the occurrence of the following acts between family or household members or dating partners or by a family or household member or dating partner upon a minor child of a family or household member or dating partner:

A. Attempting to cause or causing bodily injury or offensive physical contact, including sexual assaults under Title 17-A, chapter 11, except that contact as described in Title 17-A, section 106, subsection 1 is excluded from this definition; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Attempting to place or placing another in fear of bodily injury through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Compelling a person by force, threat of force or intimidation to engage in conduct from which the person has a right or privilege to abstain or to abstain from conduct in which the person has a right to engage; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by:

(1) Removing that person from that person's residence, place of business or school;

(2) Moving that person a substantial distance from the vicinity where that person was found; or

(3) Confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[ 2007, c. 340, §2 (AMD) .]

**2. Adult.** "Adult" means a person 18 years of age or older or a person under 18 years of age who is emancipated pursuant to Title 15, section 3506-A.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Court.** "Court" means a District Court and, with regard to section 4011, the tribal court of the Passamaquoddy Tribe or the Penobscot Nation.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3-A. Dating partners.** "Dating partners" means individuals currently or formerly involved in dating each other, whether or not the individuals are or were sexual partners.

[ 2007, c. 340, §3 (NEW) .]

**4. Family or household members.** "Family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of this chapter and Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C, 211-A, 1201, 1202 and

1253 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

[ 2007, c. 518, §8 (AMD) .]

**5. Law enforcement agency.** "Law enforcement agency" means the State Police, a sheriff's department or a municipal police department.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**6. Mutual order of protection or restraint.** "Mutual order of protection or restraint" means an order that is granted to the defendant in an action under this chapter or the inclusion of language in an order granted to the plaintiff in an action under this chapter that restricts or limits the plaintiff's conduct with regard to the defendant absent the filing of a separate complaint by the defendant, service of the complaint and summons upon the plaintiff and a finding by the court that the plaintiff committed the abuse alleged in the complaint.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2003, c. 672, §16 (AMD). 2005, c. 265, §19 (AMD). 2007, c. 340, §§2, 3 (AMD). 2007, c. 518, §8 (AMD).

## 19-A §4003. FILING OF COMPLAINT; JURISDICTION

Proceedings under this chapter must be filed, heard and determined in the District Court of the division in which either the plaintiff or the defendant resides. If the plaintiff has left the plaintiff's residence to avoid abuse, the plaintiff may bring an action in the division of the plaintiff's previous residence or new residence. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

The District Court has jurisdiction over protection from abuse petitions. If a District Court Judge is not available in the division in which a complaint requesting a temporary order is to be filed, the complaint may be presented to another District Court Judge or to any Superior Court Justice. A Superior Court Justice has the same authority as a District Court Judge to grant or deny the temporary order. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

## 19-A §4004. APPLICATION OF OTHER ACTS

The provisions and limitations of the Uniform Child Custody Jurisdiction and Enforcement Act apply to a proceeding under this chapter regardless of whether it is joined with another proceeding under section 4010, subsection 2. [1999, c. 486, §4 (AMD); 1999, c. 486, §6 (AFF).]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1999, c. 486, §4 (AMD). 1999, c. 486, §6 (AFF).

## 19-A §4005. COMMENCEMENT OF PROCEEDING

**1. Filing.** An adult who has been abused by a family or household member or a dating partner may seek relief by filing a complaint alleging that abuse.

When a minor child in the care or custody of a family or household member or a dating partner has been abused by a family or household member or a dating partner, a person responsible for the child, as defined in Title 22, section 4002, subsection 9, or a representative of the department may seek relief by filing a petition alleging that abuse.

An adult who has been a victim of conduct defined as stalking in Title 17-A, section 210-A or described as sexual assault in Title 17-A, chapter 11, whether or not the conduct was perpetrated by a family or household member or dating partner, may seek relief by filing a complaint alleging that conduct without regard to whether criminal prosecution has occurred. When a minor has been a victim of such conduct, the minor's parent, other person responsible for the child or a representative of the department may seek relief by filing a petition alleging that conduct.

[ 2007, c. 340, §4 (AMD) .]

**2. Assistance.** The following assistance is available.

A. The court shall provide separate forms and clerical assistance to either party in completing and filing a complaint or other necessary documents. The assistance may not include legal advice or assistance in drafting legal documents. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. If a judge is unavailable to review a request for temporary relief under this chapter, the clerk shall immediately notify the plaintiff of other courts at which a judge or justice is available. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. The clerk shall provide the plaintiff written notice of resources from which the plaintiff may receive legal or social service assistance. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Forms.** The forms provided by the court must be uniform throughout the State and must include a summons and an affidavit for temporary emergency relief from abuse. The summons must include a section in which to list places where the defendant may be located or available to be served. The clerk shall inquire where the defendant may be located or available to be served and list those locations on the summons or direct the plaintiff to do so.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**4. Fees.** A fee may not be charged for forms or for filing a complaint. A plaintiff may apply for leave to proceed in forma pauperis.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**5. Notice.** Prior to the plaintiff signing a complaint, the court shall notify the plaintiff, orally or in writing, that it is a crime to make a false statement under oath in a court document.

[ 2003, c. 372, §1 (NEW) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2003, c. 372, §1 (AMD). 2007, c. 340, §4 (AMD).

## 19-A §4006. HEARINGS

**1. Full hearing.** Within 21 days of the filing of a complaint, a hearing must be held at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. If a request for temporary, emergency or interim relief is denied, the hearing must be held as soon as practicable within the 21-day period.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**2. Temporary orders.** The court may enter temporary orders authorized under subsection 5 that it considers necessary to protect the plaintiff or minor child from abuse, on good cause shown in an ex parte proceeding, which the court shall hear and determine as expeditiously as practicable after the filing of a complaint. Immediate and present danger of abuse to the plaintiff or minor child constitutes good cause. An order remains in effect pending a hearing pursuant to subsection 1.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**2-A. Temporary orders; possession of dangerous weapons.** The court may direct the defendant not to possess a firearm or other dangerous weapon for the duration of the temporary order if the complaint demonstrates:

- A. Abuse that involves a firearm or other dangerous weapon; or [2003, c. 372, §2 (NEW) .]
- B. A heightened risk of immediate abuse to the plaintiff or a minor child. In determining whether a heightened risk of immediate abuse is present, the court shall consider, but is not limited to consideration of, whether:
  - (1) The temporary order of protection is not likely to achieve its purpose in the absence of such a condition;
  - (2) The defendant has violated orders of protection;
  - (3) Past or present abuse to a victim resulted in injury;
  - (4) The abuse occurred in public; and
  - (5) The abuse includes:
    - (a) Threats of suicide or homicide;
    - (b) Killing or threatening to kill pets;
    - (c) An escalation of violence;
    - (d) Stalking behavior or extreme obsession;
    - (e) Sexual violence;
    - (f) Excessive alcohol or drug use; and
    - (g) Abuse against a pregnant victim. [2003, c. 372, §2 (NEW) .]

If the court prohibits the defendant from possessing a firearm or other dangerous weapon in a temporary order and if the defendant moves for dissolution or modification of an order pursuant to subsection 7, the court must hear and decide the motion as expeditiously as possible and must issue a written decision on the motion within 24 hours after a hearing on that motion.

If the court prohibits the defendant from possessing a dangerous weapon other than a firearm in a temporary order, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm or other dangerous weapon in a temporary order, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the

order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms and other dangerous weapons at any location if there is probable cause to believe such firearms or dangerous weapons have not been relinquished by the defendant.

[ 2003, c. 372, §2 (NEW) .]

**3. Emergency relief.** Emergency relief is available as follows.

A. When there is no judge available in the District Court having venue or the District Court courthouse is closed and no other provision can be made for the shelter of an abused family or household member or minor child, a complaint may be presented to another District Court Judge or Superior Court Justice. Upon a showing of good cause, as defined in subsection 2, the court may enter temporary orders authorized under subsection 5 that it considers necessary to protect the plaintiff or minor child from abuse. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. If a complaint is presented under this subsection, that complaint and any order issued pursuant to it must be forwarded immediately to the clerk of the District Court having venue for filing. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. An order remains in effect pending a hearing pursuant to subsection 1. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**4. Denial of relief.** Before a request for temporary, emergency or interim relief is denied, the judge shall:

A. Allow the plaintiff the opportunity to be heard in person to support the complaint. The plaintiff may be accompanied by a person of the plaintiff's choice; and [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Advise the plaintiff of reasons for the denial. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**5. Interim relief.** The court, in an ex parte proceeding, may make an order concerning the parental rights and responsibilities relating to minor children residing in the household and may enjoin the defendant from engaging in the following:

A. Imposing a restraint upon the person or liberty of the plaintiff; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the plaintiff; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Entering the family residence or the residence of the plaintiff; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

(2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. Taking, converting or damaging property in which the plaintiff may have a legal interest; or [ 1995 , c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF). ]

F. Having any direct or indirect contact with the plaintiff. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF). ]

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

[ 2001, c. 273, §3 (AMD) . ]

**6. Service of order.** If the court issues a temporary order or orders emergency or interim relief, the court shall order an appropriate law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 or, if the defendant is in the custody of the Department of Corrections, the Department of Corrections to serve the defendant personally with the order, the complaint and the summons. The court shall cause the order to be delivered to the law enforcement agency, court security officer or the correctional facility in which the defendant is incarcerated as soon as practicable following the issuance of the order and the law enforcement agency, court security officer or chief administrative officer of a correctional facility or the chief administrative officer's designee shall make a good faith effort to serve process expeditiously.

[ 2009, c. 94, §5 (AMD) . ]

**7. Dissolution or modification.** Notwithstanding any statutory provision to the contrary, upon 2 days' notice to the plaintiff or upon such shorter notice as the court may order, a person who is subject to an order may appear and move the dissolution or modification of the order and, in that event, the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require. At that hearing, the plaintiff has the burden of justifying a finding in the ex parte order that the defendant has challenged by affidavit. This section may not be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) . ]

**8. Extension.** If a hearing under subsection 1 is continued, the court may make or extend temporary orders it considers necessary. Notwithstanding any other provision of this section, if a protective order is issued pursuant to section 4007, the temporary protective order issued pursuant to this section remains in effect pending service of the final order.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) . ]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1999, c. 67, §1 (AMD). 2001, c. 134, §5 (AMD). 2001, c. 273, §3 (AMD). 2003, c. 372, §2 (AMD). 2009, c. 94, §5 (AMD).

## 19-A §4007. RELIEF

**1. Protection order; consent agreement.** The court, after a hearing and upon finding that the defendant has committed the alleged abuse or engaged in the alleged conduct described in section 4005, subsection 1, may grant a protective order or, upon making that finding, approve a consent agreement to bring about a cessation of abuse or the alleged conduct. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. The court may enter a finding that the defendant represents a credible threat to the physical safety of the plaintiff or a minor child residing in the plaintiff's household. Relief granted under this section may include:

- A. Directing the defendant to refrain from threatening, assaulting, molesting, harassing, attacking or otherwise abusing the plaintiff and any minor children residing in the household; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- A-1. Directing the defendant not to possess a firearm or other dangerous weapon for the duration of the order; [1997, c. 334, §5 (NEW).]
- A-2. Prohibiting the defendant from the use, attempted use or threatened use of physical force that would reasonably be expected to cause bodily injury against the plaintiff or a minor child residing in the household; [2001, c. 134, §6 (NEW).]
- B. Directing the defendant to refrain from going upon the premises of the plaintiff's residence; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- C. Directing the defendant to refrain from repeatedly and without reasonable cause:
- (1) Following the plaintiff;
  - (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment; or
  - (3) Engaging in conduct defined as stalking in Title 17-A, section 210-A; [2007, c. 340, §5 (AMD).]
- D. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- E. When the mutual residence or household of the parties is jointly owned or jointly leased or when one party has a duty to support the other or their minor children living in the residence or household and that party is the sole owner or lessee:
- (1) Granting or restoring possession of the residence or household to one party, excluding the other; or
  - (2) A consent agreement, allowing the party with the duty to support to provide suitable alternate housing; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]
- F. Ordering a division of the personal property and household goods and furnishings of the parties and placing any protective orders considered appropriate by the court, including an order to refrain from taking, converting or damaging property in which the plaintiff has a legal interest; [2007, c. 340, §5 (AMD).]
- F-1. Ordering the termination of a life insurance policy or rider under that policy owned by the defendant if the plaintiff is the insured life under the policy or rider. Upon issuance, a copy of the court order must be sent to the insurer that issued the policy; [2003, c. 106, §1 (NEW).]
- G. Either awarding some or all temporary parental rights and responsibilities with regard to minor children or awarding temporary rights of contact with regard to minor children, or both, under such conditions that the court finds appropriate as determined in accordance with the best interest of the child pursuant to section 1653, subsections 3 to 6-B. The court's award of parental rights and responsibilities or rights of contact is not binding in any separate action involving an award of parental rights and responsibilities pursuant to chapter 55 or in a similar action brought in another jurisdiction exercising child custody jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act; [2005, c. 366, §5 (AMD).]
- H. Requiring the defendant to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court considers appropriate. The court may not order and the State may not pay for the defendant to attend a batterers' intervention program unless the program is certified under section 4014; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

I. Ordering the payment of temporary support for the dependent party or for a child in the dependent party's custody in accordance with chapter 63, or both, when there is a legal obligation to support that dependent party or that child, or both; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

J. Ordering the payment of temporary support payments to the State as provided in chapters 63 and 67; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

K. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

L. Ordering the defendant or, if the complaint is dismissed, the plaintiff to pay court costs or reasonable attorney's fees; [2005, c. 510, §10 (AMD).]

M. Entering any other orders determined necessary or appropriate in the discretion of the court; or [2005, c. 510, §11 (AMD).]

N. Directing the care, custody or control of any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household. [2005, c. 510, §12 (NEW).]

If the court enjoins the defendant under this subsection and the enjoined conduct constitutes harassment under Title 17-A, section 506-A, the court shall include in the order a warning in conformity with Title 17-A, section 506-A.

[ 2007, c. 340, §5 (AMD) .]

**1-A. No possession of firearm or dangerous weapons for duration of order.** If the court prohibits the defendant from possessing a dangerous weapon other than a firearm, the court shall specify the type of weapon the defendant is prohibited from possessing.

If the court prohibits the defendant from possessing a firearm or other dangerous weapon, the court shall direct the defendant to relinquish, within 24 hours after service of the order on the defendant or such earlier time as the court specifies in the order, all firearms and specified dangerous weapons in the possession of the defendant to a law enforcement officer or other individual for the duration of the order. If the weapons are relinquished to an individual other than a law enforcement officer, the defendant must file, within 24 hours after such relinquishment, with the court or local law enforcement agency designated in the order a written statement that contains the name and address of the individual holding the weapons and a description of all weapons held by that individual. The court may subsequently issue a search warrant authorizing a law enforcement officer to seize any firearms and other dangerous weapons at any location if there is probable cause to believe such firearms or dangerous weapons have not been relinquished by the defendant.

[ 2003, c. 372, §3 (NEW) .]

**2. Duration.** A protective order or approved consent agreement is for a fixed period not to exceed 2 years. At the expiration of that time, the court may extend an order, upon motion of the plaintiff, for such additional time as it determines necessary to protect the plaintiff or minor child from abuse. The court may continue the order in effect until the hearing under section 4006, subsection 1 on the motion to extend. Upon motion by either party, for sufficient cause, the court may modify the order or agreement from time to time as circumstances require.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Consequences of violation.** A protective order or approved consent agreement must indicate, in a clear and conspicuous manner, the potential consequences of violation of the order or agreement, as provided in section 4011 and Title 15, section 393, subsection 1, paragraph D, if applicable.

[ 1997, c. 334, §6 (AMD) .]

**4. Title to property.** An order or agreement may not affect title to any real property.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**5. Bond prohibited.** The court may not require the execution of a bond by the plaintiff prior to issuance of an order of protection.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**6. Service of order or consent decree.** The court shall order a law enforcement agency; or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15; or, if the defendant is in the custody of the Department of Corrections, the chief administrative officer or the chief administrative officer's designee at the correctional facility, to serve the defendant personally with a protective order or consent decree.

[ 2009, c. 94, §6 (AMD) .]

**7. Mutual order of protection or restraint.** The court may not issue a mutual order of protection or restraint.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**8. Action by plaintiff.** A plaintiff may extinguish or modify an order only by legal process in accordance with the Maine Rules of Civil Procedure. Any other action or inaction on the part of the plaintiff does not alter, diminish or negate the effectiveness of the order. Criminal sanctions may not be imposed upon the plaintiff for violation of a provision of the plaintiff's order for protection.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**9. Financial accounting.** In all proceedings under this chapter, the court shall apply the child support guidelines in chapter 63 using the information the plaintiff is able to provide the court. Failure of a party to file an income affidavit may not unnecessarily delay a proceeding and does not preclude the issuance of an order, except that the court shall require the plaintiff to complete and file an income affidavit at a final hearing involving child support even if the defendant does not appear for the hearing.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 187, §4 (AMD). 1997, c. 334, §§4-6 (AMD). 1997, c. 187, §5 (AFF). 1999, c. 67, §2 (AMD). 1999, c. 486, §5 (AMD). 1999, c. 486, §6 (AFF). 2001, c. 134, §6 (AMD). 2001, c. 273, §4 (AMD). 2003, c. 106, §1 (AMD). 2003, c. 372, §3 (AMD). 2005, c. 366, §5 (AMD). 2005, c. 510, §§10-12 (AMD). 2007, c. 340, §5 (AMD). 2009, c. 94, §6 (AMD).

## 19-A §4008. IDENTIFYING INFORMATION SEALED

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed by the clerk and not disclosed to the other party or to the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety or liberty of the party or child and determines that the disclosure is in the interest of justice. [2001, c. 134, §7 (RPR).]

### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 134, §7 (RPR).

## 19-A §4009. NOTIFICATION

The clerk shall issue, without fee, a copy of an order, agreement, amendment or revocation to the plaintiff, the defendant and to the law enforcement agencies most likely to enforce it as determined by the court. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

## 19-A §4010. PROCEDURE

**1. Civil rules apply.** Unless otherwise indicated in this chapter, all proceedings must be in accordance with the Maine Rules of Civil Procedure. Appeals may be taken as provided by the Maine Rules of Civil Procedure. Appeals may be only for error of law or abuse of discretion.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**2. Proceedings independent.** All proceedings may be independent of, or joined with, a proceeding for divorce, dissolution of marriage, legal separation or separate maintenance. A proceeding under this chapter is in addition to any other available civil or criminal remedies.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Self-defense.** The right to relief under this chapter is not affected by the plaintiff's use of reasonable force in response to abuse by the defendant.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**4. Intoxication.** Voluntary intoxication is not a defense to an action under this chapter.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**5. Mediation and referees.** The court may not mandate mediation or appointment of referees in actions brought under this chapter. If an action under this chapter is joined with another proceeding pursuant to subsection 2, this subsection does not prohibit the court from mandating mediation or the appointment of a referee on any issue, other than abuse, that is part of the other proceeding.

[ 2001, c. 243, §2 (AMD) .]

### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 243, §2 (AMD).

## 19-A §4011. VIOLATION

**1. Crime committed.** Except as provided in subsections 2 and 4, violation of the following is a Class D crime when the defendant has prior actual notice, which may be notice by means other than service in hand, of the order or agreement:

A. A temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation or a similar order issued by a court of the United States or of another state, territory, commonwealth or tribe; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A court-approved consent agreement. [1997, c. 683, Pt. C, §7 (AMD); 1997, c. 683, Pt. C, §8 (AFF).]

[ 2001, c. 420, §1 (AMD) .]

**2. Exception.** When the only provision that is violated concerns relief authorized under section 4007, subsection 1, paragraphs H to N, the violation must be treated as contempt and punished in accordance with law.

[ 2005, c. 510, §13 (AMD) .]

**3. Warrantless arrest.** Notwithstanding any statutory provision to the contrary, an arrest for criminal violation of an order or consent agreement may be without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. The law enforcement officer may verify, if necessary, the existence of a protective order by telephone or radio communication with a law enforcement agency with knowledge of the order.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**4. Reckless conduct; assault.** A defendant who violates a protective order issued pursuant to section 4007 through conduct that is reckless and that creates a substantial risk of death or serious bodily injury to the plaintiff named in the protective order or who assaults the plaintiff named in the protective order commits a Class C crime.

[ 2001, c. 420, §2 (NEW) .]

### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 683, §C7 (AMD). 1997, c. 683, §C8 (AFF). 2001, c. 420, §§1,2 (AMD). 2005, c. 510, §13 (AMD).

## 19-A §4012. LAW ENFORCEMENT AGENCY RESPONSIBILITIES

**1. Reports.** A law enforcement agency shall report all incidents of abuse by adults of family or household members as required by the State Bureau of Identification under Title 25, section 1544.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**2. Agency procedures.** Law enforcement agencies shall establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of abuse or violation of an order of protection are informed of a recorded prior incident of abuse involving the abused party and can verify the effective dates and terms of a recorded order of protection.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Officer training.** Law enforcement agencies shall provide officers employed by them with an education and training program designed to inform the officers of the problems of family and household abuse, procedures to deal with these problems, the provisions of this chapter and the services and facilities available to abused family and household members. The amount and degree of officer training, beyond the distribution of information, must be determined by each local law enforcement agency.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**4. Maine Criminal Code enforcement.** A law enforcement officer at the scene of an alleged incident of abuse shall use the same standard of enforcing relevant Maine Criminal Code sections when the incident involves family or household members as when it involves strangers.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**5. Arrest in certain situations.** When a law enforcement officer has probable cause to believe that there has been a criminal violation under section 4011 of a court-approved consent agreement or a protection order issued pursuant to this chapter or Title 15, chapter 12-A, or that a violation of Title 17-A, section 208 has occurred between members of the same family or household, that enforcement officer shall arrest and take into custody the alleged offender.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**6. Officer responsibilities.** When a law enforcement officer has reason to believe that a family or household member has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:

A. Remaining on the scene as long as the officer reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

B. Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

C. Giving that person immediate and adequate written notice of that person's rights, which include information summarizing the procedures and relief available to victims of the family or household abuse; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

D. Arresting the abusing party with or without a warrant pursuant to section 4011 and Title 17-A, section 15. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**7. Law enforcement agency policy.** Every municipal, county and state law enforcement agency with the duty to investigate, prosecute and arrest offenders of this chapter and Title 17-A shall adopt a written policy on the enforcement of this chapter and the handling of domestic abuse cases in general.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**8. District attorney prosecutorial policy.** The Attorney General, in consultation with the prosecutors' association, shall develop a written policy regarding prosecution of domestic abuse cases under the provisions of Title 17-A. The district attorney for each of the several counties within the State shall adopt a written policy regarding prosecution of domestic abuse cases.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**9. Notification of attempted purchase of firearm.** When the Department of Public Safety receives notification from a federal agency that a background criminal records check conducted under the system established pursuant to 18 United States Code, Section 922(t) indicates that a potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a temporary or final protection from abuse order, the department shall make every reasonable effort to notify as quickly as practicable both the individual intended to be protected by the protection from abuse order and another law enforcement agency with jurisdiction in the municipality in which that individual resides of the information received from the federal agency.

For the purposes of this subsection, notification may be made by the Department of Public Safety to the individual intended to be protected by the protection from abuse order through a law enforcement agency within the county in which the individual resides. When the department makes notification through such a law enforcement agency, that agency then must make reasonable effort to notify as quickly as practicable the individual intended to be protected by the protection from abuse order. If, when notifying a law enforcement agency, the department is informed by that agency that it cannot notify the individual intended to be protected by the protection from abuse order, the department must continue to make a reasonable effort to notify that individual as quickly as practicable, including through a different law enforcement agency within the county in which the individual resides.

[ 2005, c. 671, §1 (NEW) . ]

**10. Liability for damages.** The State, a political subdivision of the State or a law enforcement officer is not liable for damage that may be caused by the failure or inability to inform an individual who is the subject of a protection from abuse order in accordance with subsection 9. This subsection does not prohibit the State or a political subdivision of the State from pursuing legally authorized disciplinary action.

[ 2005, c. 671, §2 (NEW) . ]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2005, c. 671, §§1,2 (AMD) .

## 19-A §4013. MAINE COMMISSION ON DOMESTIC AND SEXUAL ABUSE

There is created the Maine Commission on Domestic and Sexual Abuse, as established by Title 5, section 12004-I, subsection 74-C, referred to in this section as the "commission." [2001, c. 240, §2 (AMD) . ]

**1. Composition; chair.** The commission is composed as follows.

A. The Governor shall name the chair from among the following members:

- (1) Two members, appointed by the Governor, who are representatives of the statewide coalition of domestic violence projects;
- (1-A) Two members, appointed by the Governor, who are representatives of the statewide coalition of sexual assault centers;
- (2) One member, appointed by the Governor, who is a representative of the mental health profession;
- (3) One member, appointed by the Governor, who is a representative of victims of domestic violence;
- (3-A) One member, appointed by the Governor, who is a representative of victims of sexual assault;
- (4) Two members, appointed by the Governor, one of whom has experience representing victims of domestic abuse, who are attorneys with experience in domestic relations cases;

- (5) One member, appointed by the Governor, who was a victim of domestic abuse and used the court system;
  - (5-A) One member, appointed by the Governor, who was a victim of sexual assault and used the court system;
  - (6) One member, appointed by the Governor, who is a district attorney or assistant district attorney;
  - (7) One member, appointed by the Governor, who is chief of a municipal police department;
  - (8) One member, appointed by the Governor, who is a county sheriff;
  - (8-A) One member, appointed by the Governor, who is the statewide coordinator of a statewide coalition to end domestic violence;
  - (8-B) One member, appointed by the Governor, who is the executive director of a statewide coalition against sexual assault;
  - (8-C) The Attorney General or the Attorney General's designee;
  - (8-D) The Chief of the Maine State Police or the chief's designee;
  - (9) The Commissioner of Public Safety or the commissioner's designee;
  - (9-A) The Commissioner of Health and Human Services or the commissioner's designee;
  - (9-C) The Commissioner of Education or the commissioner's designee;
  - (9-D) The Commissioner of Labor or the commissioner's designee;
  - (9-E) The Commissioner of Corrections or the commissioner's designee;
  - (9-F) One member, appointed by the Governor, who has experience working in batterers' intervention programs;
  - (10) Up to 6 members-at-large, appointed by the Governor;
  - (11) Up to 4 members, appointed by the Governor, representing underserved populations; and
  - (12) One member, appointed by the Governor, who is a tribal member and provides services through a tribal program to tribal members who are victims of domestic or sexual violence.
- [ 2009, c. 257, §1 (AMD) .]

B. The Chief Justice of the Supreme Judicial Court is requested to appoint one person to serve the commission in an advisory capacity. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

[ 2009, c. 257, §1 (AMD) .]

**2. Terms of office.** The members serve 3-year terms.

[ 1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

**3. Powers and duties.** The commission shall advise and assist the executive, legislative and judicial branches of State Government on issues related to domestic and sexual abuse. The commission may make recommendations on legislative and policy actions, including training of the various law enforcement officers, prosecutors and judicial officers responsible for enforcing and carrying out the provisions of this chapter, and may undertake research development and program initiatives consistent with this section. The entire commission shall meet at least 2 times a year. Subcommittees of the commission may meet as necessary. The commission may accept funds from the Federal Government, from a political subdivision of the State or from an individual, foundation or corporation and may expend these funds for purposes that are consistent with this subsection.

[ 2001, c. 240, §2 (AMD) .]

**4. Domestic Abuse Homicide Review Panel.** The commission shall establish the Domestic Abuse Homicide Review Panel, referred to in this subsection as the "panel," to review the deaths of persons who are killed by family or household members as defined by section 4002.

A. The chair of the commission shall appoint members of the panel who have experience in providing services to victims of domestic and sexual abuse and shall include at least the following: the Chief Medical Examiner, a physician, a nurse, a law enforcement officer, the Commissioner of Health and Human Services, the Commissioner of Corrections, the Commissioner of Public Safety, a judge as assigned by the Chief Justice of the Supreme Judicial Court, a representative of the Maine Prosecutors Association, an assistant attorney general responsible for the prosecution of homicide cases designated by the Attorney General, an assistant attorney general handling child protection cases designated by the Attorney General, a victim-witness advocate, a mental health service provider, a facilitator of a certified batterers' intervention program under section 4014 and 3 persons designated by a statewide coalition for family crisis services. Members who are not state officials serve a 2-year term without compensation, except that of those initially appointed by the chair, 1/2 must be appointed for a one-year term. [2001, c. 240, §2 (AMD); 2003, c. 689, Pt. B, §7 (REV).]

B. The panel shall recommend to state and local agencies methods of improving the system for protecting persons from domestic and sexual abuse, including modifications of laws, rules, policies and procedures following completion of adjudication. [2001, c. 240, §2 (AMD).]

C. The panel shall collect and compile data related to domestic and sexual abuse, including data relating to deaths resulting from domestic abuse when the victim was pregnant at the time of death. [2005, c. 88, Pt. A, §1 (AMD).]

D. In any case subject to review by the panel, upon oral or written request of the panel, any person that possesses information or records that are necessary and relevant to a homicide review shall as soon as practicable provide the panel with the information and records. Persons disclosing or providing information or records upon the request of the panel are not criminally or civilly liable for disclosing or providing information or records in compliance with this paragraph. [1997, c. 507, §3 (NEW); 1997, c. 507, §4 (AFF).]

E. The proceedings and records of the panel are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commission shall disclose conclusions of the review panel upon request, but may not disclose information, records or data that are otherwise classified as confidential. [1997, c. 507, §3 (NEW); 1997, c. 507, §4 (AFF).]

The commission shall submit a report on the panel's activities, conclusions and recommendations to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 30, 2002 and biennially thereafter.

[2005, c. 88, Pt. A, §1 (AMD).]

#### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 507, §§2,3 (AMD). 1997, c. 507, §4 (AFF). 2001, c. 240, §2 (AMD). 2003, c. 689, §B7 (REV). 2005, c. 88, §A1 (AMD). 2005, c. 397, §A14 (AMD). 2009, c. 257, §1 (AMD).

## 19-A §4014. CERTIFICATION OF BATTERERS' INTERVENTION PROGRAMS

**1. Rules establishing standards and procedures for certification.** The Department of Corrections, referred to in this section as the "department," shall adopt rules pursuant to the Maine Administrative Procedure Act, in consultation with the Maine Commission on Domestic and Sexual Abuse, that establish

standards and procedures for certification of batterers' intervention programs. The department, in consultation with the commission, shall review and certify programs that meet the standards. Rules adopted pursuant to this subsection are major substantive rules pursuant to Title 5, chapter 375, subchapter II-A.

[ 2001, c. 240, §3 (AMD) .]

## **2. Temporary certification of batterers' intervention programs.**

[ 2001, c. 386, §4 (RP) .]

### SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 292, §2 (AMD). 1997, c. 292, §3 (AFF). 2001, c. 240, §3 (AMD). 2001, c. 386, §4 (AMD).

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