

§4007. Relief

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse as defined in section 4002, subsection 1 or engaged in the alleged conduct described in section 4005, subsection 1, may grant a protective order to bring about a cessation of abuse or the alleged conduct. Alternatively, when the parties voluntarily request a consent agreement, the court may grant a protective order with or without a finding that the defendant committed abuse as defined in section 4002, subsection 1 or with or without a finding that the defendant engaged in conduct described in section 4005, subsection 1. 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. The court may enter a finding of economic abuse. 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

A-1. Directing the defendant not to possess a firearm, muzzle-loading firearm, bow, crossbow or other dangerous weapon for the duration of the order; [PL 2015, c. 217, §2 (AMD).]

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; [PL 2001, c. 134, §6 (NEW).]

B. Directing the defendant to refrain from going upon the premises of the plaintiff's residence; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 2007, c. 340, §5 (AMD).]

D. Directing the defendant to refrain from having any direct or indirect contact with the plaintiff, including via social media; [PL 2019, c. 176, §2 (AMD).]

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

E-1. Directing the defendant to refrain from injuring or threatening to injure any animal owned, possessed, leased, kept or held by either party or a minor child residing in the household; [PL 2013, c. 109, §2 (NEW).]

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; [PL 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; [PL 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; [PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 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; [PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]
- K. Ordering payment of monetary relief to the plaintiff for losses suffered as a result of the defendant's conduct. Monetary relief includes but is not limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage, transitional living expenses 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 monetary relief, if any, to be awarded. Nothing in this paragraph may be construed to limit the court's discretion to enter any of the other available relief under this chapter, and does not preclude a plaintiff from seeking monetary relief through other actions as permissible by law; [PL 2019, c. 407, §4 (AMD).]
- L. Ordering the defendant to pay court costs or reasonable attorney's fees; [PL 2011, c. 303, §1 (AMD).]
- L-1. Ordering the plaintiff to pay court costs or reasonable attorney's fees, or both, only if a judgment is entered against the plaintiff after a hearing in which both the plaintiff and the defendant are present and the court finds that the complaint is frivolous; [PL 2011, c. 303, §2 (NEW).]
- M. Entering any other orders determined necessary or appropriate in the discretion of the court; [PL 2015, c. 410, Pt. B, §5 (AMD); PL 2015, c. 443, §14 (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; [PL 2017, c. 288, Pt. A, §23 (RPR).]
- O. With regard to conduct described as aggravated sex trafficking or sex trafficking as described in Title 17-A, section 852 or 853, respectively, entering any other orders determined necessary or appropriate in the discretion of the court, including, but not limited to, requiring the defendant to pay economic damages related to the return or restoration of the plaintiff's passport or other immigration document and any debts of the plaintiff arising from the trafficking relationship; [PL 2017, c. 288, Pt. A, §24 (RPR).]

P. With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, entering any orders determined necessary or appropriate in the discretion of the court, including but not limited to ordering the defendant to pay costs associated with removal, destruction or return of the private images; or [PL 2017, c. 288, Pt. A, §25 (AMD).]

Q. With respect to unauthorized dissemination of certain private images as described in Title 17-A, section 511-A, ordering the defendant to remove, destroy or return or to direct the removal, destruction or return of the private images, ordering the defendant to cease the dissemination of the private images and prohibiting the defendant from disseminating the private images. [PL 2017, c. 288, Pt. A, §26 (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.

[PL 2019, c. 574, §1 (AMD).]

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

If the court prohibits the defendant from possessing a firearm, muzzle-loading firearm, bow, crossbow 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, muzzle-loading firearms, bows, crossbows 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, muzzle-loading firearms, bows, crossbows and other dangerous weapons at any location if there is probable cause to believe such firearms, muzzle-loading firearms, bows, crossbows or dangerous weapons have not been relinquished by the defendant. [PL 2015, c. 217, §3 (AMD).]

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.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

[PL 1997, c. 334, §6 (AMD).]

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

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.

A. Notwithstanding any other provision of law, service of an order may be made pursuant to this section through the use of electronically transmitted printed copies of orders that have been transmitted directly from the court to the law enforcement agency or correctional facility making service. Return of proof of service may be made by electronic transmission of the proof of service directly to the court from the law enforcement officer making service or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility making service. [PL 2009, c. 555, §6 (NEW).]

B. In any subsequent criminal prosecution for violation of this section when the service of an order was made through the use of an electronically transmitted printed copy of the order, with 10 days' advance written notice to the prosecution, the defendant may request that the prosecution call as a witness the law enforcement officer who served the order or the chief administrative officer, or the chief administrative officer's designee, of the correctional facility that served the order. [PL 2009, c. 555, §7 (NEW).]
[PL 2009, c. 555, §§6, 7 (AMD).]

7. Mutual order of protection or restraint. The court may not issue a mutual order of protection or restraint.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 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.
[PL 1995, c. 694, Pt. B, §2 (NEW); PL 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 187, §4 (AMD). PL 1997, c. 187, §5 (AFF). PL 1997, c. 334, §§4-6 (AMD). PL 1999, c. 67, §2 (AMD). PL 1999, c. 486, §5 (AMD). PL 1999, c. 486, §6 (AFF). PL 2001, c. 134, §6 (AMD). PL 2001, c. 273, §4 (AMD). PL 2003, c. 106, §1 (AMD). PL 2003, c. 372, §3 (AMD). PL 2005, c. 366, §5 (AMD). PL 2005, c. 510, §§10-12 (AMD). PL 2007, c. 340, §5 (AMD). PL 2009, c. 94, §6 (AMD). PL 2009, c. 555, §§6, 7 (AMD). PL 2011, c. 303, §§1, 2 (AMD). PL 2013, c. 109, §2 (AMD). PL 2015, c. 217, §§2, 3 (AMD). PL 2015, c. 410, Pt. B, §§5-7 (AMD). PL 2015, c. 443, §§14-16 (AMD). PL 2017, c. 288, Pt. A, §§23-26 (AMD). PL 2019, c. 176, §2 (AMD). PL 2019, c. 407, §4 (AMD). PL 2019, c. 574, §1 (AMD).

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