## MAINE STATE LEGISLATURE

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1	(EMERGENCY)
2	SECOND REGULAR SESSION
4 5	ONE HUNDRED AND ELEVENTH LEGISLATURE
	Legislative Document No. 1819
	H.P. 1396 House of Representatives, January 4, 1984
	Reference to the Committee on Judiciary. Ordered printed and sent up
	for concurrence.
	Approved for introduction by the Legislative Council pursuant to Joint
	Rule 26.
	EDWIN H. PERT, Clerk
	Presented by Representative Mitchell of Vassalboro.  Cosponsors: Representative Hayden of Durham, Senator Clark of
	Cumberland and Representative Foster of Ellsworth.
	STATE OF MAINE
	IN THE YEAR OF OUR LORD
	NINETEEN HUNDRED AND EIGHTY-FOUR
	AN ACT to Reenact a Provision for Protective
	Orders in Crimes Between Family Members.
	Emergency preamble. Whereas, Acts of the Legis-
	lature do not become effective until 90 days after
	adjournment unless enacted as emergencies; and
	Whereas, in 1979 the Legislature enacted a law to
	allow judges to issue protective orders as a condition of bail or probation for certain crimes between
	family members; and
	Whomas this law contained a sunst sussision
	Whereas, this law contained a sunset provision that resulted in the automatic repeal of the law con-
	cerning protective orders on November 1, 1983; and
	Whomas the Legislature inadventortly failed to
	Whereas, the Legislature inadvertently failed to repeal this sunset provision, but has acted to repeal
	the sunset provision of other provisions of the
	state's domestic violence law: and

1 2 3 4	Whereas, the continuing ability of judges to issue protective orders in cases of certain crimes between family members is vital to the family members subject to violent crimes; and
5 6 7 8 9	Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
11 12	Be it enacted by the People of the State of Maine as follows:
13	15 MRSA c. 12-A is enacted to read:
14	CHAPTER 12-A
15	CRIMES BETWEEN FAMILY MEMBERS
16 17	§321. Protective orders in crimes between family members
18 19 20 21 22 23 24	1. Definition. For purposes of this section, "family or household members" means spouses or former spouses, individuals presently or formerly living as spouses, natural parents of the same child or adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute "living as spouses."
25 26	2. Grounds for order. The court may issue a protective order if:
27 28 29	A. A person is charged with or convicted of a violation of Title 17-A, sections 201 to 204, 207 to 211, 252, 253, 301 to 303, 506-A or 556;
30 31	B. The offender and the victim are family or household members; and
32 33 34	C. The court finds that there is a likelihood that the offender may injure the health or safety of the victim in the future.

- 3. Scope of order. A protective order may be a condition of release. It may require the offender:
- A. To stay away from the home, school, business or place of employment of the victim;
- B. Not to visit, or to visit only at certain times or under certain conditions, a child residing with the victim; or
- 8 C. Not to do specific acts which the court finds
  9 may harass, torment or threaten the victim.
- 10 <u>4. Issuance of order. The clerk may issue, with-</u>
  11 <u>out fee, a copy of a protective order, amendment or</u>
  12 <u>revocation to the offender, the victim and, as the</u>
  13 <u>court directs, to the law enforcement agencies most</u>
  14 <u>likely to enforce it.</u>
- 5. Appeal. A court decision may be appealed as provided by the Maine Rules of Civil Procedure.
- 17 6. Penalty. Violation of a protective order, 18 when the person has prior actual notice of the order, 19 is a Class D crime. Notwithstanding any statutory 20 provision to the contrary, an arrest for violation of 21 a protective order may be without warrant upon probable cause whether or not the violation is committed 22 in the presence of the law enforcement officer. The 23 24 law enforcement officer may verify, if necessary, the 25 existence of a protective order by telephone or radio communication with a law enforcement agency with 26 27 knowledge of the order.
- 28 Emergency clause. In view of the emergency 29 cited in the preamble, this Act shall take effect 30 when approved.

## 31 STATEMENT OF FACT

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This bill seeks to reenact the law concerning protective orders in crimes between family members which was repealed on November 1, 1983, because of the operation of a sunset provision. It is believed that the failure to repeal the sunset provision was an oversight. Because the sunset provision has al-

ready gone into effect, the entire section must now be reenacted in order for the law to continue. No changes in the section have been made in this proposed reenactment, with the exception of the deletion of the sunset provision.

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