

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1993

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Legislative Document

No. 416

H.P. 328

House of Representatives, February 9, 1993

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**An Act to Make Stalking a Crime in Maine.**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CATHCART of Orono.  
Cosponsored by Representatives: BOWERS of Washington, CARROLL of Gray, CHONKO of Topsham, COFFMAN of Old Town, FAIRCLOTH of Bangor, FITZPATRICK of Durham, HALE of Sanford, HOGLUND of Portland, JACQUES of Waterville, KILKELLY of Wiscasset, LIPMAN of Augusta, MARTIN of Eagle Lake, MICHAEL of Auburn, MITCHELL of Vassalboro, MORRISON of Bangor, MURPHY of Berwick, PARADIS of Augusta, SAXL of Bangor, STEVENS of Orono, WINN of Glenburn, Senators: BALDACCI of Penobscot, FOSTER of Hancock, HANDY of Androscoggin, O'DEA of Penobscot, PARADIS of Aroostook, PEARSON of Penobscot, PINGREE of Knox.

Be it enacted by the People of the State of Maine as follows:

2  
4       **Sec. 1. 5 MRSA §4654, sub-§4**, as enacted by PL 1987, c. 515,  
§1, is amended to read:

6       **4. Interim relief.** The court, in an ex parte proceeding,  
may enjoin the defendant from engaging in any of the following:

8           A. Imposing any restraint upon the person or liberty of the  
10 plaintiff;

12           B. Threatening, assaulting, molesting, harassing or  
14 otherwise disturbing the peace of the plaintiff;

16           C. Entering the plaintiff's residence; ~~or~~

18           D. Taking, converting or damaging property in which the  
plaintiff may have a legal interest; ~~or~~

20           E. Following the plaintiff or going to the plaintiff's  
22 residence or place of work or repeatedly placing the  
defendant in the vicinity of the plaintiff's residence or  
24 place of work without reasonable cause.

26       **Sec. 2. 5 MRSA §4655, sub-§1, ¶C-1** is enacted to read:

28       C-1. Directing the defendant to refrain from following the  
plaintiff or going to the plaintiff's residence or place of  
30 work or repeatedly placing the defendant in the vicinity of  
the plaintiff's residence or place of work without  
32 reasonable cause;

34       **Sec. 3. 17-A MRSA §506-A, sub-§1**, as amended by PL 1987, c.  
736, §36, is further amended to read:

36       1. A person is guilty of harassment if, without reasonable  
38 cause, he that person engages in any course of conduct with the  
intent to harass, torment or threaten another person, ~~---after~~  
40 ~~having-been-forbidden-to-do-so-by-any-sheriff,-deputy-sheriff,~~  
~~ee-nstable,-police-officer-or-justice-of-the-peace~~ in defiance of  
a lawful order not to do so.

42       **Sec. 4. 17-A MRSA §506-A, sub-§4** is enacted to read:

44       4. For purposes of this section, "harassment" includes  
46 stalking another person by following the person or repeatedly  
placing oneself at or in the vicinity of the other person's  
48 residence or place of work without reasonable cause.

2           **Sec. 5. 19 MRSA §762, sub-§1, ¶¶D and E**, as enacted by PL 1989,  
c. 862, §7, are amended to read:

4           D. Knowingly restricting substantially the movements of  
6           another person without that person's consent or other lawful  
8           authority by: removing that person from that person's  
10           residence, place of business or school; moving that person a  
12           substantial distance from the vicinity where that person was  
found; or 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; or

14           E. Communicating to a person a threat to commit, or to  
16           cause to be committed, a crime of violence dangerous to  
18           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

22           **Sec. 6. 19 MRSA §762, sub-§1, ¶F** is enacted to read:

24           F. Stalking another person by following the person or  
26           repeatedly placing oneself at or in the vicinity of the  
28           other person's residence or place of work without reasonable  
30           cause.

32           **Sec. 7. 19 MRSA §766, sub-§1, ¶B-2** is enacted to read:

34           B-2. Directing the defendant to refrain from following the  
36           plaintiff or going to the plaintiff's residence or place of  
38           work or repeatedly placing the defendant in the vicinity of  
40           the plaintiff's residence or place of work without  
42           reasonable cause;

### 44   **STATEMENT OF FACT**

46           This bill expands the crime of harassment to more clearly  
48           cover conduct commonly known as stalking. Sections 1 and 2 of  
50           the bill amend the protection from harassment laws to expand the  
52           court's authority to order the defendant to refrain from  
54           following the plaintiff or going to or staying near the  
plaintiff's place of work or home without reasonable cause.

          Section 3 deletes from the current harassment crime the  
requirement that a law enforcement officer or justice of the  
peace first forbid the defendant from harassing the victim before  
harassment is a crime. Instead, the defendant's conduct must be  
in defiance of a lawful order not to do so. This language is  
modeled on the criminal trespass statute in the Maine Criminal  
Code; existing case law defines what a lawful order is.

2 Section 4 also amends the current harassment laws by  
broadening the definition of harassment to include following  
4 another person, or going to or staying near the other person's  
place of work or home.

6 Sections 5, 6 and 7 amend the current protection from abuse  
laws to include stalking in the definition of abuse and to  
8 specifically allow the court to order the defendant to refrain  
from following the plaintiff, or going or staying near the  
10 plaintiff's place of work or home. Under this bill, violation of  
a protection from abuse order that contains this requirement is a  
12 Class D crime.