

MAINE STATE LEGISLATURE

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JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 568, L.D. 769, Bill, "An Act to Conform Maine Law Related to Domestic Relations with Federal Law"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

Sec. 1. 15 MRSA §321, sub-§1, as enacted by PL 1983, c. 619, is amended to read:

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 or minor children of any household member when the offender is an adult household member. Holding oneself out to be a spouse ~~shall~~ is not be necessary to constitute "living as spouses."

Sec. 2. 15 MRSA §321, sub-§6, as enacted by PL 1983, c. 619, is amended to read:

6. Penalty. Violation of a protective order or of any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe, when the person has prior actual notice of the order, is a Class D crime. Notwithstanding any statutory provision to the contrary, an arrest for violation of a protective order 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

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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.

Sec. 3. 19 MRSA §762, sub-§4, as amended by PL 1989, c. 862, §8, is further amended to read:

4. Family or household members. "Family or household members" means spouses or former spouses, individuals presently or formerly living together as spouses, natural parents of the same child, ~~or~~ adult household members related by consanguinity or affinity or minor children of any household member when the defendant is an adult household member and for the purposes of this chapter only, includes individuals presently or formerly living together as sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses."

Sec. 4. 19 MRSA §769, sub-§1, as amended by PL 1993, c. 469, §4, is further amended to read:

1. Crime committed. Violation of a temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation, any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe or a court approved consent agreement, when the defendant has prior actual notice, which may be notice by means other than service in hand, of the order or agreement, is a Class D crime, except when the only provision that is violated concerns relief authorized under section 766, subsection 1, paragraphs F to K. Violation of section 766, subsection 1, paragraphs F to K, must be treated as contempt and punished in accordance with law.'

Further amend the bill by inserting at the end before the statement of fact the following:

FISCAL NOTE

This bill may increase prosecutions for Class D crimes. If a jail sentence is imposed, the additional costs to the counties are estimated to be \$83.22 per day per prisoner. These costs are not reimbursed by the State. The number of prosecutions that may result in a jail sentence and the resulting costs to the county jail system are expected to be insignificant.

The additional workload, administrative costs and indigent defense costs associated with the minimal number of new criminal cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department.

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2 In addition to the new criminal cases, this bill may also
4 increase protective order cases by a minimal amount. The
6 additional workload and administrative costs associated with
8 these cases can be absorbed within the budgeted resources of the
Judicial Department. The collection of additional filing fees
and fines may also increase General Fund revenue by minor
amounts.'

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STATEMENT OF FACT

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This amendment replaces the bill.

14

This amendment amends the law covering the issuance of
16 protective orders when crimes are committed between family
members. It expands the definition of "family or household
18 members" to include minor children of adult household members
when the offender against whom the order is sought is an adult
20 household member. This definition is used in the Maine Criminal
Code as a basis for certain arrest powers of law enforcement
22 officers. A similar amendment is made to the definition of
"family and household members" in the protection from domestic
24 abuse laws.

26

This amendment makes the penalty provisions of the laws
concerning crimes between family members and domestic abuse
28 consistent with each other and the federal Violent Crime Control
and Law Enforcement Act of 1994. The federal law requires states
30 to give full faith and credit to the protective orders of other
states and federal courts. This amendment covers other
32 jurisdictions' protective orders and puts Maine in compliance
with that provision of the federal law.

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