

MAINE STATE LEGISLATURE

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M
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L.D. 1758

DATE: 3/7/96

(Filing No. H-751)

JUDICIARY

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

COMMITTEE AMENDMENT "*A*" to H.P. 1279, L.D. 1758, Bill, "An Act to Amend the Protection from Abuse and Protection from Harassment Statutes"

Amend the bill by striking out all of section 3 (page 1, lines 41 to 47 in L.D.) and inserting in its place the following:

'Sec. 3. 5 MRSA §4653, sub-§1, as amended by PL 1995, c. 265, §3, is further amended to read:

1. Filing. Any person who has been a victim of harassment, including a business ~~or a landlord acting on behalf of an aggrieved tenant~~, may seek relief by filing a sworn petition in an appropriate court alleging that harassment.'

Further amend the bill in section 4 in paragraph A by striking out all of subparagraph (1) (page 2, lines 5 to 13 in L.D.) and inserting in its place the following:

'(1) Before the defendant or the defendant's attorney can be heard, the plaintiff or the plaintiff's employees may be in immediate and present danger of physical abuse from the defendant or ~~is~~ in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct or the plaintiff's business ~~or rental~~ property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;'

COMMITTEE AMENDMENT

2 Further amend the bill by inserting after section 8 the
following:

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6 'Sec. 9. 17-A MRSA §212, sub-§3, as enacted by PL 1991, c.
866, §1, is amended to read:

8 3. As used in this section, "member of the actor's family
10 or household" means the actor's spouse or former spouse, an
individual presently or formerly living together with the actor
12 as spouse, the natural parent of the actor's child, an adult
household member related to the actor by consanguinity or
14 affinity, a minor child of any household member when the
defendant is an adult household member and an individual
16 presently or formerly living together with the actor as a sexual
partner. Professing to be a spouse is not necessary to
18 constitute "living as spouses."

20 Further amend the bill by striking out all of section 9
(page 3, lines 13 to 25 in L.D.) and inserting in its place the
following:

22 'Sec. 9. 19 MRSA §762, sub-§4, as amended by PL 1995, c. 469,
24 §3, is further amended to read:

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

36 Further amend the bill in section 14 in the first line (page
38 4, line 9 in L.D.) by striking out the following: "sub-§B-3" and
inserting in its place the following: 'sub-§1, ¶B-3'

40 Further amend the bill by relettering or renumbering any
42 nonconsecutive Part letter or section number to read
consecutively.

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

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FISCAL NOTE

This bill may increase prosecutions for Class C crimes. Sentences of more than 9 months imposed for Class C crimes must be served in a state correctional institution. The cost to the State per sentence is \$55,711 based upon an average length of stay of one year and 10 months. The State also must reimburse counties for sentences served in county jails of 9 months or less for Class C crimes.

The Judicial Department may require additional General Fund appropriations to cover indigent defense costs related to these new cases. The amounts can not be estimated at this time. The additional workload and administrative costs associated with the minimal number of new cases filed in the court system can be absorbed within the budgeted resources of the Judicial Department. The collection of additional fines may also increase General Fund revenue by minor amounts.'

STATEMENT OF FACT

This amendment retains the provisions of current law allowing a business to be a plaintiff in seeking and receiving protection from harassment.

This amendment also updates the definition of "member of the actor's family of household" in the section of the Maine Criminal Code that enhances the penalties for "offenses against the person" when they are committed against a member of the actor's family or household. The definition of "family or household members" was amended in Public Law 1995, chapter 469 in both the Maine Revised Statutes, Title 15 and the protection from domestic abuse provisions to provide for orders to protect minors within the actor's or defendant's household. The Maine Criminal Code provision was not amended. This amendment makes the change in the Maine Criminal Code to maintain consistency among the 3 provisions.

This amendment also allows a person to seek protection from a domestic abuse order if the person and the accused abuser are currently living together or formerly lived together, whether or not they are or were sexual partners.

This amendment also adds a fiscal note.