

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 1473

H.P. 1104

House of Representatives, March 8, 2001

An Act to Make Uniform the Language Governing Parental Rights and Responsibilities in the Maine Revised Statutes.

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative LEMOINE of Old Orchard Beach.
Cosponsored by Representatives: LaVERDIERE of Wilton, RICHARDSON of Brunswick,
SAVAGE of Buxton.

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

2
3 **Sec. 1. 19-A MRSA §4001, sub-§3**, as enacted by PL 1995, c.
4 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

6 **3. Enforcement.** To provide protection by promptly entering
7 and diligently enforcing court orders that prohibit abuse and,
8 when necessary, by reducing the abuser's access to the victim and
9 addressing related issues of ~~child-custody~~ parental rights and
10 responsibilities and economic support so that victims are not
11 trapped in abusive situations by fear of retaliation, loss of a
12 child or financial dependence;

14 **Sec. 2. 19-A MRSA §4006, sub-§5**, as enacted by PL 1995, c.
15 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

16 **5. Interim relief.** The court, in an ex parte proceeding,
17 may make an order concerning the ~~care-and-custody-of~~ parental
18 rights and responsibilities relating to minor children residing
19 in the household and may enjoin the defendant from engaging in
20 the following:

22 A. Imposing a restraint upon the person or liberty of the
23 plaintiff;

26 B. Threatening, assaulting, molesting, harassing, attacking
27 or otherwise disturbing the peace of the plaintiff;

28 C. Entering the family residence or the residence of the
29 plaintiff;

32 D. Repeatedly and without reasonable cause:

34 (1) Following the plaintiff; or

36 (2) Being at or in the vicinity of the plaintiff's
37 home, school, business or place of employment;

38 E. Taking, converting or damaging property in which the
39 plaintiff may have a legal interest; or

42 F. Having any direct or indirect contact with the plaintiff.

44 If the court enjoins the defendant under this subsection and the
45 enjoined conduct constitutes harassment under Title 17-A, section
46 506-A, the court shall include in the order a warning in
47 conformity with Title 17-A, section 506-A.

48 **Sec. 3. 19-A MRSA §4007, sub-§1, ¶G**, as amended by PL 1999, c.
50 486, §5 and affected by §6, is further amended to read:

2 G. Either awarding allocating some or all temporary custody
3 of parental rights and responsibilities with regard to minor
4 children or establishing allocating temporary visitation
5 rights of contact with regard to minor children when--the
6 visitation-is-determined-to-be-in-the-best-interest-of-the
7 child, or both, under such conditions that the court finds
8 appropriate as determined in accordance with the best
9 interest of the child pursuant to section 1653, subsections
10 3 to 6. The court's ~~eustedy-and-visitation-award~~ allocation
11 of parental rights and responsibilities or allocation of
12 rights of contact is not binding and may not be considered
13 precedent in any separate action involving an award of
14 parental rights and responsibilities pursuant to chapter 55
15 or in a similar action brought in another jurisdiction
16 exercising child custody jurisdiction in accordance with the
17 Uniform Child Custody Jurisdiction and Enforcement Act;

20 SUMMARY

22 This bill revises language concerning child custody in the
23 protection from abuse laws to use terms consistent with the
24 language governing parental rights and responsibilities in other
25 situations. Specifically, this bill replaces the word "custody"
26 to reflect the proper use of the terms "parental rights and
27 responsibilities" and "rights of contact" as used elsewhere in
28 the Maine Revised Statutes, Title 19-A. A redundant reference to
29 "the best interest of the child" is removed. This bill also
30 makes clear that the allocating of parental rights and
31 responsibilities through a protection from abuse action has no
32 precedential value in any separate action involving parental
rights and responsibilities.