

MAINE STATE LEGISLATURE

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R.d.S.

L.D. 2163

DATE: March 25, 2002 (Filing No. S-508)

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

SENATE AMENDMENT A to COMMITTEE AMENDMENT "A" to H.P. 1658, L.D. 2163, Bill, "An Act to Implement the Recommendations of the Commission to Study Domestic Violence"

Amend the amendment by inserting after Part D the following:

PART E

Sec. E-1. 19-A MRSA §4006, sub-§5, as amended by PL 2001, c. 273, §3, is further amended to read:

5. Interim relief. The court, in an ex parte proceeding, may make an order concerning the parental rights and responsibilities relating to minor children residing in the household and may enjoin the defendant from engaging in the following:

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

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

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

D. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

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

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

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

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

At the request of the plaintiff at the ex parte proceeding, the
court shall hold a hearing no sooner than 48 hours after the
request by the plaintiff nor later than 5 days after such a
request. At this hearing, the court may enjoin the defendant
from possessing a firearm or other dangerous weapon, if the court
determines that the defendant has a history of violence. The
court may impose this condition only if the court discusses the
plaintiff's request for the condition prohibiting possession of a
firearm or other dangerous weapon in person with the plaintiff
and the court determines that the prohibition of possession of a
firearm or other dangerous weapon is an appropriate condition
after considering at least the defendant's history of violence;
the type of abuse alleged; any reason that the defendant may have
to possess a firearm or other dangerous weapon, including its use
in employment; and any other issue that the court determines
relevant to the complaint. With the consent of the parties, this
hearing may be a full hearing pursuant to subsection 1.'

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

FISCAL NOTE

The Judicial Department will incur some minor additional
costs to hold additional or more complicated hearings. These
costs can be absorbed within the department's existing budgeted
resources.

SUMMARY

This amendment requires the court, at the request of the
plaintiff at an ex parte proceeding, to hold a hearing no sooner
than 48 hours after the request by the plaintiff nor later than 5
days after such a request. At this hearing, the court may
prohibit the possession of a firearm or other dangerous weapon by
a defendant if the court determines that the defendant has a
history of violence. The court may impose this condition only if

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2 the court discusses the plaintiff's request for the condition
3 prohibiting possession of a firearm or other dangerous weapon in
4 person with the plaintiff and the court determines that the
5 prohibition of possession of a firearm or other dangerous weapon
6 is an appropriate condition after considering at least the
7 following: the defendant's history of violence; the type of
8 abuse alleged; any reason that the defendant may have to possess
9 a firearm or other dangerous weapon, including its use in
10 employment; and any other issue that the court determines
11 relevant to the complaint. With the consent of the parties, this
12 hearing may be a full hearing as provided by law.

14 SPONSORED BY: 

16 (Senator LONGLEY)

18 COUNTY: Waldo
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