

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

SECOND REGULAR SESSION-2004

Legislative Document

No. 1800

H.P. 1322

House of Representatives, December 22, 2003

An Act To Discourage Misuse of Protection-from-abuse Proceedings

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 17, 2003. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND

Clerk

Presented by Representative SMITH of Van Buren.
Cosponsored by Senator EDMONDS of Cumberland and
Representatives: BLANCHETTE of Bangor, CLARK of Millinocket, DUDLEY of Portland,
DUNLAP of Old Town, DUPLESSIE of Westbrook, JACKSON of Fort Kent, PATRICK of
Rumford.

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

4 **Sec. 1. 19-A MRSA §1653, sub-§3, ¶O,** as amended by PL 2001, c.
665, §1, is further amended to read:

6 O. A parent's prior willful misuse of the protection from
8 abuse process in chapter 101 in order to gain tactical
10 advantage in a proceeding involving the determination of
12 parental rights and responsibilities of a minor child, ~~Such
willful misuse may only be considered if established by
clear and convincing evidence, and if it is further found by
clear and convincing evidence that in the particular
14 circumstances of the parents and child, that willful misuse
tends to show that the acting parent will in the future have
a lessened ability and willingness to cooperate and work
16 with the other parent in their shared responsibilities for
the child. The court shall articulate findings of fact
18 whenever relying upon this factor as part of its
determination of a child's best interest. The voluntary
20 dismissal of a protection from abuse petition may not, taken
alone, be treated as evidence of the willful misuse of the
22 protection from abuse process;~~

24 **SUMMARY**

26 This bill removes the requirement that evidence of a
28 parent's prior willful misuse of the protection from abuse
process may only be considered if the willful misuse tends to
30 show that the acting parent will in the future have a lessened
ability and willingness to cooperate with the other parent in
32 their shared responsibility for their child.