

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 756

H.P. 515

House of Representatives, February 26, 2009

An Act To Discourage the Misuse of the Process for Obtaining Protection from Abuse

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative SCHATZ of Blue Hill.
Cosponsored by Representative: CLEARY of Houlton.

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

2 **Sec. 1. 19-A MRSA §4007, sub-§2**, as enacted by PL 1995, c. 694, Pt. B, §2 and
3 affected by Pt. E, §2, is amended to read:

4 **2. Duration.** A protective order or approved consent agreement is for a fixed period
5 not to exceed 2 years. At the expiration of that time, the court may extend an order, upon
6 motion of the plaintiff, ~~for such additional time as it determines necessary to protect the~~
7 ~~plaintiff or minor child from abuse~~ a fixed period not to exceed 2 years. The court may
8 continue the order in effect until the hearing under section 4006, subsection 1 on the
9 motion to extend. Upon motion by either party, for sufficient cause, the court may
10 modify the order or agreement from time to time as circumstances require. An approved
11 consent agreement may not be extended without the consent of both parties.

12 **Sec. 2. 19-A MRSA §4007, sub-§11** is enacted to read:

13 **11. Attorney's fees.** The court shall order the plaintiff to pay the defendant's
14 reasonable attorney's fees if the court finds that allegations made by the plaintiff were
15 false or substantially inadequate to rise to the level of meriting relief or that the
16 allegations were made with the intent to harass the defendant.

17 **Sec. 3. 19-A MRSA §4007, sub-§12** is enacted to read:

18 **12. No continuance of ex parte order if no abuse proved.** If the court does not
19 make a finding that the defendant has committed the alleged abuse or engaged in the
20 alleged conduct described in section 4005, subsection 1, the court may not extend an ex
21 parte protection order to provide the plaintiff an opportunity to initiate a proceeding to
22 determine parental rights and responsibilities under chapter 55.

23 **Sec. 4. 19-A MRSA §4010, sub-§1**, as enacted by PL 1995, c. 694, Pt. B, §2 and
24 affected by Pt. E, §2, is amended to read:

25 **1. Civil rules apply.** Unless otherwise indicated in this chapter, all proceedings
26 must be in accordance with the Maine Rules of Civil Procedure. Maine Rules of Civil
27 Procedure, Rule 26 applies to discovery. Appeals may be taken as provided by the Maine
28 Rules of Civil Procedure. Appeals may be only for error of law or abuse of discretion.

29 **Sec. 5. 19-A MRSA §4010, sub-§6** is enacted to read:

30 **6. Priority.** Actions under this chapter have priority over all other civil actions
31 except protective custody hearings under Title 22, chapter 1071.

32 **SUMMARY**

33 This bill addresses several issues in the protection from abuse laws.

34 1. It provides that a protection order may be extended, but only for a time certain, not
35 to exceed 2 years. Current law does not put a time limit on extensions.

1 2. It provides that an order entered as a consent agreement cannot be extended
2 without the consent of both parties.

3 3. It requires the court to order the plaintiff to pay the reasonable attorney's fees of
4 the defendant if the court finds that the allegations made by the plaintiff were false or
5 substantially inadequate to rise to the level of meriting relief or that the allegations were
6 made with the intent to harass the defendant.

7 4. It provides that the court may not order a continuance of an ex parte protection
8 order when the plaintiff did not prove abuse in order to allow the plaintiff to initiate a
9 parental rights and responsibilities action.

10 5. It clarifies that discovery under the Maine Rules of Civil Procedure, Rule 26
11 applies to actions under the protection from abuse laws.

12 6. It provides that protection from abuse actions have priority on the court's docket
13 over all other civil actions other than child protective custody hearings.