

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

SECOND REGULAR SESSION-2012

Legislative Document

No. 1711

H.P. 1263

House of Representatives, December 23, 2011

An Act To Mandate the Use of Standardized Risk Assessment in the Management of Domestic Violence Crimes

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

Received by the Clerk of the House on December 21, 2011. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script, reading 'Heather J.R. Priest'.

HEATHER J.R. PRIEST
Clerk

Presented by Representative CAIN of Orono.
Cosponsored by Senator COURTNEY of York and
Representatives: FREDETTE of Newport, HASKELL of Portland, PRIEST of Brunswick,
Senators: ALFOND of Cumberland, GERZOFKY of Cumberland, WOODBURY of
Cumberland.

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

2 **Sec. 1. 15 MRSA §1023, sub-§4, ¶C**, as amended by PL 2011, c. 341, §2, is
3 further amended to read:

4 C. In a case involving domestic violence, set preconviction bail for a defendant
5 before making a good faith effort to obtain from the arresting officer, the responsible
6 prosecutorial office, a jail employee or other law enforcement officer:

- 7 (1) A brief history of the alleged abuser;
- 8 (2) The relationship of the parties;
- 9 (3) The name, address, phone number and date of birth of the victim; ~~and~~
- 10 (4) Existing conditions of protection from abuse orders, conditions of bail and
11 conditions of probation; and
- 12 (5) Beginning no later than January 1, 2014, the results of a validated, evidence-
13 based domestic violence risk assessment recommended by the Maine
14 Commission on Domestic and Sexual Abuse, established in Title 5, section
15 12004-I, subsection 74-C, conducted on the alleged abuser;

16 **Sec. 2. 15 MRSA §1026, sub-§4, ¶C**, as amended by PL 2007, c. 374, §9, is
17 further amended to read:

18 C. The history and characteristics of the defendant, including, but not limited to:

- 19 (1) The defendant's character and physical and mental condition;
- 20 (2) The defendant's family ties in the State;
- 21 (3) The defendant's employment history in the State;
- 22 (4) The defendant's financial resources;
- 23 (5) The defendant's length of residence in the community and the defendant's
24 community ties;
- 25 (6) The defendant's past conduct, including any history relating to drug or
26 alcohol abuse;
- 27 (7) The defendant's criminal history, if any;
- 28 (8) The defendant's record concerning appearances at court proceedings;
- 29 (9) Whether, at the time of the current offense or arrest, the defendant was on
30 probation, parole or other release pending trial, sentencing, appeal or completion
31 of a sentence for an offense in this jurisdiction or another;
- 32 (9-A) Any evidence that the defendant poses a danger to the safety of others in
33 the community, including the results of a validated, evidence-based domestic
34 violence risk assessment recommended by the Maine Commission on Domestic
35 and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C;

1 (10) Any evidence that the defendant has obstructed or attempted to obstruct
2 justice by threatening, injuring or intimidating a victim or a prospective witness,
3 juror, attorney for the State, judge, justice or other officer of the court; and

4 (11) Whether the defendant has previously violated conditions of release,
5 probation or other court orders, including, but not limited to, violating protection
6 from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

7 **Sec. 3. 19-A MRSA §4012, sub-§6**, as enacted by PL 1995, c. 694, Pt. B, §2 and
8 affected by Pt. E, §2, is amended to read:

9 **6. Officer responsibilities.** When a law enforcement officer has reason to believe
10 that a family or household member has been abused, the officer shall immediately use all
11 reasonable means to prevent further abuse, including:

12 A. Remaining on the scene as long as the officer reasonably believes there is a
13 danger to the physical safety of that person without the presence of a law
14 enforcement officer, including, but not limited to, staying in the dwelling unit;

15 B. Assisting that person in obtaining medical treatment necessitated by an assault,
16 including driving the victim to the emergency room of the nearest hospital;

17 C. Giving that person immediate and adequate written notice of that person's rights,
18 which include information summarizing the procedures and relief available to victims
19 of the family or household abuse; or

20 D. Arresting the abusing party with or without a warrant pursuant to section 4011
21 and Title 17-A, section 15.

22 Beginning no later than January 1, 2014, in addition to the actions specified in this
23 subsection, the law enforcement officer shall administer a validated, evidence-based
24 domestic violence risk assessment recommended by the Maine Commission on Domestic
25 and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C. The law
26 enforcement officer administering this assessment shall provide the results of the
27 assessment to the bail commissioner, if appropriate, and the district attorney for the
28 county in which the abuse took place.

29 **Sec. 4. 25 MRSA §2803-B, sub-§1, ¶D**, as amended by PL 2011, c. 265, §2, is
30 further amended to read:

31 D. Domestic violence, which must include, at a minimum, the following:

32 (1) A process to ensure that a victim receives notification of the defendant's
33 release from jail;

34 (2) A process for the collection of information regarding the defendant that
35 includes the defendant's previous history, the parties' relationship, the name of the
36 victim and a process to relay this information to a bail commissioner before a bail
37 determination is made;

38 (3) A process for the safe retrieval of personal property belonging to the victim
39 or the defendant that includes identification of a possible neutral location for
40 retrieval, the presence of at least one law enforcement officer during the retrieval

1 and giving the victim the option of at least 24 ~~hours~~ hours' notice to each party
2 prior to the retrieval; ~~and~~

3 (4) Standard procedures to ensure that protection from abuse orders issued under
4 Title 19-A, section 4006 or 4007 are served on the defendant as quickly as
5 possible; ~~and~~

6 (5) Beginning no later than January 1, 2014, a process for the administration of a
7 validated, evidence-based domestic violence risk assessment recommended by
8 the Maine Commission on Domestic and Sexual Abuse, as established in Title 5,
9 section 12004-I, subsection 74-C, and the conveyance of the results of that
10 assessment to the bail commissioner, if appropriate, and the district attorney for
11 the county in which the domestic violence occurred.

12 **Sec. 5. 25 MRSA §2803-B, sub-§2**, as amended by PL 2011, c. 265, §3, is
13 further amended to read:

14 **2. Minimum policy standards.** The board shall establish minimum standards for
15 each law enforcement policy no later than June 1, 1995, except that policies for expanded
16 requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1)
17 to (4) must be established no later than January 1, 2012 and the policy for the use of, and
18 the submission of the results of, the validated, evidence-based domestic violence risk
19 assessment under subsection 1, paragraph D, subparagraph (5) must be established no
20 later than January 1, 2013; policies for death investigations under subsection 1, paragraph
21 I must be established no later than January 1, 2004; policies for public notification
22 regarding persons in the community required to register under Title 34-A, chapter 15
23 under subsection 1, paragraph J must be established no later than January 1, 2006;
24 policies for the recording and preservation of interviews of suspects in serious crimes
25 under subsection 1, paragraph K must be established no later than January 1, 2005;
26 policies for the expanded use of physical force, including the use of electronic weapons
27 and less-than-lethal munitions under subsection 1, paragraph A, must be established no
28 later than January 1, 2010; and policies for mental illness and the process for involuntary
29 commitment under subsection 1, paragraph L must be established no later than January 1,
30 2010.

31 **Sec. 6. 25 MRSA §2803-B, sub-§3**, as amended by PL 2011, c. 265, §4, is
32 further amended to read:

33 **3. Agency compliance.** The chief administrative officer of each law enforcement
34 agency shall certify to the board no later than January 1, 1996 that the agency has adopted
35 written policies consistent with the minimum standards established by the board pursuant
36 to subsection 2, except that certification to the board for expanded policies for domestic
37 violence under subsection 1, paragraph D, subparagraphs (1) to (4) must be made to the
38 board no later than June 1, 2012 and for the policy for the use of, and the submission of
39 the results of, the validated, evidence-based domestic violence risk assessment under
40 subsection 1, paragraph D, subparagraph (5) must be made to the board no later than July
41 1, 2013; certification to the board for adoption of a death investigation policy under
42 subsection 1, paragraph I must be made to the board no later than June 1, 2004;
43 certification to the board for adoption of a public notification policy under subsection 1,

1 paragraph J must be made to the board no later than June 1, 2006; certification to the
2 board for adoption of a policy for the recording and preservation of interviews of suspects
3 in serious crimes under subsection 1, paragraph K must be made to the board no later
4 than June 1, 2005; certification to the board for adoption of an expanded use of physical
5 force policy under subsection 1, paragraph A must be made to the board no later than
6 June 1, 2010; and certification to the board for adoption of a policy regarding mental
7 illness and the process for involuntary commitment under subsection 1, paragraph L must
8 be made to the board no later than June 1, 2010. The certification must be accompanied
9 by copies of the agency policies. The chief administrative officer of each agency shall
10 certify to the board no later than June 1, 1996 that the agency has provided orientation
11 and training for its members with respect to the policies, except that certification for
12 orientation and training with respect to expanded policies for domestic violence under
13 subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later
14 than January 1, 2004; certification for orientation and training with respect to the
15 administration of a validated, evidence-based domestic violence risk assessment under
16 subsection 1, paragraph D, subparagraph (5) must be made to the board no later than
17 January 1, 2014; certification for orientation and training with respect to policies
18 regarding death investigations under subsection 1, paragraph I must be made to the board
19 no later than January 1, 2005; certification for orientation and training with respect to
20 policies regarding public notification under subsection 1, paragraph J must be made to the
21 board no later than January 1, 2007; certification for orientation and training with respect
22 to policies regarding the recording and preservation of interviews of suspects in serious
23 crimes under subsection 1, paragraph K must be made to the board no later than January
24 1, 2006; certification for orientation and training with respect to policies regarding
25 expanded use of physical force under subsection 1, paragraph A must be made to the
26 board no later than January 1, 2011; and certification for orientation and training with
27 respect to policies regarding mental illness and the process for involuntary commitment
28 under subsection 1, paragraph L must be made to the board no later than January 1, 2011.

29 **Sec. 7. 34-A MRSA §3014** is enacted to read:

30 **§3014. Identification; domestic violence risk factors**

31 Beginning no later than January 1, 2014, a county corrections employee or an
32 employee of the department whose duties include contact with prisoners or juvenile
33 detainees shall administer to all prisoners and juvenile detainees a validated, evidence-
34 based domestic violence risk assessment recommended by the Maine Commission on
35 Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, to
36 identify those prisoners or juvenile detainees who display known risk factors for domestic
37 violence. This validated, evidence-based domestic violence risk assessment must be
38 administered in addition to any other standard risk assessment performed. If the results
39 of the validated, evidence-based domestic violence risk assessment indicate a higher risk
40 than the results of a standard risk assessment indicate, the results of the validated,
41 evidence-based domestic violence risk assessment must be used to override the results of
42 the standard risk assessment based on a protocol established at the facility in which the
43 prisoner or juvenile detainee resides.

