

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 581

S.P. 196

In Senate, February 16, 2017

An Act To Require Notification When a Temporary Protection from Abuse Order Is Rescinded

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator JACKSON of Aroostook.

Cosponsored by Senator: KEIM of Oxford, Representative: MOONEN of Portland.

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

2 **Sec. 1. 19-A MRSA §4006, sub-§6, ¶C** is enacted to read:

3 C. The law enforcement agency, court security officer or the correctional facility that
4 serves process on the defendant shall inquire of the defendant the address where the
5 defendant is residing or intends to reside and shall notify the court of that address as
6 soon as practicable.

7 **Sec. 2. 19-A MRSA §4006, sub-§7**, as enacted by PL 1995, c. 694, Pt. B, §2 and
8 affected by Pt. E, §2, is repealed and the following enacted in its place:

9 **7. Dissolution or modification.** This subsection governs motions by a plaintiff or a
10 defendant to dissolve or to modify a temporary order.

11 A. Notwithstanding any statutory provision to the contrary, upon 2 days' notice to the
12 plaintiff or upon such shorter notice as the court may order, a defendant may appear
13 and move the dissolution or modification of the temporary order, and, in that event,
14 the court shall proceed to hear and determine the motion as expeditiously as the ends
15 of justice require. At that hearing, the plaintiff has the burden of justifying a finding
16 in the ex parte order that the defendant has challenged by affidavit.

17 B. Notwithstanding any statutory provision to the contrary, a plaintiff may appear
18 and move the dissolution or modification of the temporary order. Before granting or
19 denying a request by a plaintiff to dissolve or modify the temporary order, the judge
20 shall allow the plaintiff the opportunity to be heard in person to support the motion.

21 C. If the court grants a request for modification of the temporary order under
22 paragraph A or B, the court shall order service of the modified order on the defendant
23 pursuant to subsection 6 and shall provide a copy of the decision to the plaintiff in
24 hand or shall mail a copy of the decision to the plaintiff at the plaintiff's last known
25 address.

26 D. If the court grants a request for dissolution of the temporary order under
27 paragraph A or B, the court shall as soon as practicable notify the plaintiff, the
28 defendant and the law enforcement agency or correctional facility that most likely
29 would have enforced the temporary order as determined by the court.

30 (1) The court shall provide a copy of the decision to the plaintiff in hand or shall
31 mail a copy of the decision to the plaintiff at the plaintiff's last known address.

32 (2) The court shall provide a copy of the decision to the defendant in hand or
33 shall mail a copy of the decision to the defendant at the address provided by the
34 plaintiff pursuant to section 4005, subsection 3, if any; the address provided
35 pursuant to subsection 6, paragraph C, if any; and the last address provided by the
36 defendant to the court, if any.

37 (3) The court shall electronically transmit a printed copy of the decision to the
38 law enforcement agency or correctional facility that most likely would have
39 enforced the temporary order as determined by the court.

1 This subsection may not be construed to abolish or limit any means otherwise available
2 by law for obtaining dissolution, modification or discharge of a temporary order.

3

SUMMARY

4 This bill specifies the method a court is required to use to notify a plaintiff, a
5 defendant and the relevant law enforcement agency or correctional facility that a
6 temporary protection from abuse order has been modified or dissolved by the court.