

MAINE STATE LEGISLATURE

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L.D. 748

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Date: 6/13/19

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STATE OF MAINE

6

HOUSE OF REPRESENTATIVES

7

129TH LEGISLATURE

8

FIRST REGULAR SESSION

9

COMMITTEE AMENDMENT "A" to H.P. 553, L.D. 748, Bill, "An Act To
10 Provide Relief to Survivors of Economic Abuse"

11

Amend the bill in section 1 in subsection 2-A in the first line (page 1, line 3 in L.D.)
12 by striking out the following: "Notwithstanding any provision of" and inserting the
13 following: 'Except as prohibited by'

14

Amend the bill in section 1 in subsection 2-A in the 5th line (page 1, line 7 in L.D.)
15 by inserting after the following: "shall" the following: 'reinvestigate the debt. If after the
16 investigation it is determined that the debt is the result of economic abuse, the consumer
17 reporting agency shall'

18

Amend the bill in section 3 in subsection 3-B in the 3rd line (page 1, line 18 in L.D.)
19 by inserting after the following: "unauthorized" the following: 'or coerced'

20

Amend the bill by striking out all of section 4 and inserting the following:

21

'**Sec. 4. 19-A MRSA §4007, sub-§1**, as amended by PL 2017, c. 288, Pt. A, §§23
22 to 26, is further amended to read:

23

1. Protection order; consent agreement. The court, after a hearing and upon
24 finding that the defendant has committed the alleged abuse as defined in section 4002,
25 subsection 1 or engaged in the alleged conduct described in section 4005, subsection 1,
26 may grant a protective order or, upon making that finding, approve a consent agreement
27 to bring about a cessation of abuse or the alleged conduct. This subsection does not
28 preclude the parties from voluntarily requesting a consent agreement without a finding of
29 abuse. The court may enter a finding that the defendant represents a credible threat to the
30 physical safety of the plaintiff or a minor child residing in the plaintiff's household. The
31 court may enter a finding of economic abuse. Relief granted under this section may
32 include:

33

A. Directing the defendant to refrain from threatening, assaulting, molesting,
34 harassing, attacking or otherwise abusing the plaintiff and any minor children
35 residing in the household;

COMMITTEE AMENDMENT

1 A-1. Directing the defendant not to possess a firearm, muzzle-loading firearm, bow,
2 crossbow or other dangerous weapon for the duration of the order;

3 A-2. Prohibiting the defendant from the use, attempted use or threatened use of
4 physical force that would reasonably be expected to cause bodily injury against the
5 plaintiff or a minor child residing in the household;

6 B. Directing the defendant to refrain from going upon the premises of the plaintiff's
7 residence;

8 C. Directing the defendant to refrain from repeatedly and without reasonable cause:

9 (1) Following the plaintiff;

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

12 (3) Engaging in conduct defined as stalking in Title 17-A, section 210-A;

13 D. Directing the defendant to refrain from having any direct or indirect contact with
14 the plaintiff;

15 E. When the mutual residence or household of the parties is jointly owned or jointly
16 leased or when one party has a duty to support the other or their minor children living
17 in the residence or household and that party is the sole owner or lessee:

18 (1) Granting or restoring possession of the residence or household to one party,
19 excluding the other; or

20 (2) A consent agreement, allowing the party with the duty to support to provide
21 suitable alternate housing;

22 E-1. Directing the defendant to refrain from injuring or threatening to injure any
23 animal owned, possessed, leased, kept or held by either party or a minor child
24 residing in the household;

25 F. Ordering a division of the personal property and household goods and furnishings
26 of the parties and placing any protective orders considered appropriate by the court,
27 including an order to refrain from taking, converting or damaging property in which
28 the plaintiff has a legal interest;

29 F-1. Ordering the termination of a life insurance policy or rider under that policy
30 owned by the defendant if the plaintiff is the insured life under the policy or rider.
31 Upon issuance, a copy of the court order must be sent to the insurer that issued the
32 policy;

33 G. Either awarding some or all temporary parental rights and responsibilities with
34 regard to minor children or awarding temporary rights of contact with regard to minor
35 children, or both, under such conditions that the court finds appropriate as determined
36 in accordance with the best interest of the child pursuant to section 1653, subsections
37 3 to 6-B. The court's award of parental rights and responsibilities or rights of contact
38 is not binding in any separate action involving an award of parental rights and
39 responsibilities pursuant to chapter 55 or in a similar action brought in another

COMMITTEE AMENDMENT

- 1 jurisdiction exercising child custody jurisdiction in accordance with the Uniform
2 Child Custody Jurisdiction and Enforcement Act;
- 3 H. Requiring the defendant to receive counseling from a social worker, family
4 service agency, mental health center, psychiatrist or any other guidance service that
5 the court considers appropriate. The court may not order and the State may not pay
6 for the defendant to attend a batterers' intervention program unless the program is
7 certified under section 4014;
- 8 I. Ordering the payment of temporary support for the dependent party or for a child
9 in the dependent party's custody in accordance with chapter 63, or both, when there is
10 a legal obligation to support that dependent party or that child, or both;
- 11 J. Ordering the payment of temporary support payments to the State as provided in
12 chapters 63 and 67;
- 13 K. Ordering payment of monetary ~~compensation~~ relief to the ~~abused person~~ plaintiff
14 for losses suffered as a ~~direct~~ result of the ~~abuse~~ defendant's conduct. ~~Compensatory~~
15 ~~losses are~~ Monetary relief includes but is not limited to loss of earnings or support,
16 reasonable expenses incurred for personal injuries or property damage, transitional
17 living expenses and reasonable moving expenses. Upon the motion of either party,
18 for sufficient cause, the court may set a later hearing on the issue of the amount of
19 damages monetary relief, if any, to be awarded. Nothing in this paragraph may be
20 construed to limit the court's discretion to enter any of the other available relief under
21 this chapter, and does not preclude a plaintiff from seeking monetary relief through
22 other actions as permissible by law;
- 23 L. Ordering the defendant to pay court costs or reasonable attorney's fees;
- 24 L-1. Ordering the plaintiff to pay court costs or reasonable attorney's fees, or both,
25 only if a judgment is entered against the plaintiff after a hearing in which both the
26 plaintiff and the defendant are present and the court finds that the complaint is
27 frivolous;
- 28 M. Entering any other orders determined necessary or appropriate in the discretion of
29 the court;
- 30 N. Directing the care, custody or control of any animal owned, possessed, leased,
31 kept or held by either party or a minor child residing in the household;
- 32 O. With regard to conduct described as aggravated sex trafficking or sex trafficking
33 as described in Title 17-A, section 852 or 853, respectively, entering any other orders
34 determined necessary or appropriate in the discretion of the court, including, but not
35 limited to, requiring the defendant to pay economic damages related to the return or
36 restoration of the plaintiff's passport or other immigration document and any debts of
37 the plaintiff arising from the trafficking relationship;
- 38 P. With respect to unauthorized dissemination of certain private images as described
39 in Title 17-A, section 511-A, entering any orders determined necessary or appropriate
40 in the discretion of the court, including but not limited to ordering the defendant to
41 pay costs associated with removal, destruction or return of the private images; or

1 Q. With respect to unauthorized dissemination of certain private images as described
2 in Title 17-A, section 511-A, ordering the defendant to remove, destroy or return or
3 to direct the removal, destruction or return of the private images, ordering the
4 defendant to cease the dissemination of the private images and prohibiting the
5 defendant from disseminating the private images.

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

9 Amend the bill by relettering or renumbering any nonconsecutive Part letter or
10 section number to read consecutively.

11 **SUMMARY**

12 The bill adds remedies for economic abuse to the relief a court may include in a
13 protection from abuse order. This amendment makes revisions to the bill ensuring that it
14 does not conflict with the federal Fair Credit Reporting Act, including provisions
15 concerning identity theft, as well as modifying the monetary relief generally available to
16 the court to allow the court broader discretion in addressing economic abuse issues.

17 This amendment addresses concerns about preemption of state law by the federal Fair
18 Credit Reporting Act and makes clear that a credit reporting agency's removal from a
19 consumer's credit report of references to debt or any portion of a debt determined to be
20 the result of economic abuse is not intended to conflict with federal law but complement
21 the federal law and protect survivors of economic abuse when possible. The amendment
22 requires the credit reporting agency to reinvestigate the debt, and if it is determined that
23 the debt is the result of economic abuse, the credit reporting agency must remove
24 reference to the debt, or any part determined to be the result of economic abuse, from the
25 consumer's credit report.

26 The amendment clarifies the definition of "economic abuse" to include both
27 unauthorized and coerced use of credit, recognizing that there are already remedies for
28 the crime of identity theft. This amendment is not intended to address identity theft,
29 which is covered by the federal Fair Credit Reporting Act in 15 United States Code,
30 Section 1681c-2. Instead, the amendment includes, but is not limited to, the exploitative
31 use of joint credit accounts without authorization by both joint owners and debt incurred
32 through coercion.

33 The amendment adds language to the Maine Revised Statutes, Title 19-A, section
34 4007, subsection 1 to ensure that it is clear that the abuse for which a plaintiff may seek
35 the issuance of a protection from abuse order is what is defined as abuse in Title 19-A,
36 section 4002, subsection 1. The bill does not add economic abuse as a type of conduct
37 for which a protection from abuse order may be sought, although it does provide that if a
38 protection from abuse order is issued, the court has expanded discretion to order
39 appropriate monetary relief to help address the impact of any economic abuse that may be
40 found by the court. The amendment makes clear that the court may make a finding of
41 economic abuse.

42 The amendment strikes from the bill language specific to economic abuse relief that
43 may be included in a protection from abuse order and instead amends the current law

1 concerning monetary compensation. The amendment broadens the available relief by
2 changing the monetary compensation in current law to monetary relief to the plaintiff that
3 includes, but is not limited to, the existing types of relief and adds transitional living
4 expenses, which are often necessary for plaintiffs who have suffered economic abuse. It
5 also provides that the monetary relief component of a protection from abuse order does
6 not limit the court's discretion to provide any other relief in a protection from abuse order,
7 either as the statute specifically enumerates or as the court may find necessary and
8 appropriate to issue as part of the proceeding under its discretion in section 4007,
9 subsection 1, paragraph M, and does not preclude the plaintiff from seeking monetary
10 relief through other actions as permissible by law.

11

FISCAL NOTE REQUIRED

12

(See attached)



129th MAINE LEGISLATURE

LD 748

LR 913(03)

An Act To Provide Relief to Survivors of Economic Abuse

Fiscal Note for Bill as Amended by Committee Amendment *A(H-585)*

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund
Minor revenue increase - General Fund
Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional filing fees may increase General Fund and other dedicated revenue by minor amounts.