

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 1865

H.P. 1336

House of Representatives, December 23, 2019

An Act To Amend the Protection from Abuse Laws Concerning Consent Agreements

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

Received by the Clerk of the House on December 19, 2019. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BAILEY of Saco.
Cosponsored by Representative: RECKITT of South Portland.

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

2 **Sec. 1. 19-A MRSA §4007, sub-§1**, as amended by PL 2019, c. 407, §4, is
3 further amended to read:

4 **1. Protection order; consent agreement.** The court, after a hearing and upon
5 finding that the defendant has committed the alleged abuse as defined in section 4002,
6 subsection 1 or engaged in the alleged conduct described in section 4005, subsection 1,
7 may grant a protective order or, upon making that finding, approve a consent agreement
8 to bring about a cessation of abuse or the alleged conduct. This subsection does not
9 preclude the parties from voluntarily requesting a consent agreement without a finding of
10 abuse or a finding that the alleged conduct occurred. The court may enter a finding that
11 the defendant represents a credible threat to the physical safety of the plaintiff or a minor
12 child residing in the plaintiff's household. The court may enter a finding of economic
13 abuse. Relief granted under this section may include:

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

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

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

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

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

25 (1) Following the plaintiff;

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

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

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

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

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

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

- 1 E-1. Directing the defendant to refrain from injuring or threatening to injure any
2 animal owned, possessed, leased, kept or held by either party or a minor child
3 residing in the household;
- 4 F. Ordering a division of the personal property and household goods and furnishings
5 of the parties and placing any protective orders considered appropriate by the court,
6 including an order to refrain from taking, converting or damaging property in which
7 the plaintiff has a legal interest;
- 8 F-1. Ordering the termination of a life insurance policy or rider under that policy
9 owned by the defendant if the plaintiff is the insured life under the policy or rider.
10 Upon issuance, a copy of the court order must be sent to the insurer that issued the
11 policy;
- 12 G. Either awarding some or all temporary parental rights and responsibilities with
13 regard to minor children or awarding temporary rights of contact with regard to minor
14 children, or both, under such conditions that the court finds appropriate as determined
15 in accordance with the best interest of the child pursuant to section 1653, subsections
16 3 to 6-B. The court's award of parental rights and responsibilities or rights of contact
17 is not binding in any separate action involving an award of parental rights and
18 responsibilities pursuant to chapter 55 or in a similar action brought in another
19 jurisdiction exercising child custody jurisdiction in accordance with the Uniform
20 Child Custody Jurisdiction and Enforcement Act;
- 21 H. Requiring the defendant to receive counseling from a social worker, family
22 service agency, mental health center, psychiatrist or any other guidance service that
23 the court considers appropriate. The court may not order and the State may not pay
24 for the defendant to attend a batterers' intervention program unless the program is
25 certified under section 4014;
- 26 I. Ordering the payment of temporary support for the dependent party or for a child
27 in the dependent party's custody in accordance with chapter 63, or both, when there is
28 a legal obligation to support that dependent party or that child, or both;
- 29 J. Ordering the payment of temporary support payments to the State as provided in
30 chapters 63 and 67;
- 31 K. Ordering payment of monetary relief to the plaintiff for losses suffered as a result
32 of the defendant's conduct. Monetary relief includes but is not limited to loss of
33 earnings or support, reasonable expenses incurred for personal injuries or property
34 damage, transitional living expenses and reasonable moving expenses. Upon the
35 motion of either party, for sufficient cause, the court may set a later hearing on the
36 issue of the amount of monetary relief, if any, to be awarded. Nothing in this
37 paragraph may be construed to limit the court's discretion to enter any of the other
38 available relief under this chapter, and does not preclude a plaintiff from seeking
39 monetary relief through other actions as permissible by law;
- 40 L. Ordering the defendant to pay court costs or reasonable attorney's fees;
- 41 L-1. Ordering the plaintiff to pay court costs or reasonable attorney's fees, or both,
42 only if a judgment is entered against the plaintiff after a hearing in which both the

1 plaintiff and the defendant are present and the court finds that the complaint is
2 frivolous;

3 M. Entering any other orders determined necessary or appropriate in the discretion of
4 the court;

5 N. Directing the care, custody or control of any animal owned, possessed, leased,
6 kept or held by either party or a minor child residing in the household;

7 O. With regard to conduct described as aggravated sex trafficking or sex trafficking
8 as described in Title 17-A, section 852 or 853, respectively, entering any other orders
9 determined necessary or appropriate in the discretion of the court, including, but not
10 limited to, requiring the defendant to pay economic damages related to the return or
11 restoration of the plaintiff's passport or other immigration document and any debts of
12 the plaintiff arising from the trafficking relationship;

13 P. With respect to unauthorized dissemination of certain private images as described
14 in Title 17-A, section 511-A, entering any orders determined necessary or appropriate
15 in the discretion of the court, including but not limited to ordering the defendant to
16 pay costs associated with removal, destruction or return of the private images; or

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

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

25 **SUMMARY**

26 This bill amends the protection from abuse laws to provide that parties are not
27 precluded from voluntarily requesting a consent agreement without a finding by the court
28 that the alleged conduct described in the Maine Revised Statutes, Title 19-A, section
29 4005, subsection 1 occurred.