

# MAINE STATE LEGISLATURE

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L.D. 1696

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Date: 4/5/22

(Filing No. S-516)

MAJORITY

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JUDICIARY

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STATE OF MAINE

6

SENATE

7

130TH LEGISLATURE

8

SECOND REGULAR SESSION

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COMMITTEE AMENDMENT "A" to S.P. 551, L.D. 1696, "An Act To Clarify and Recodify Maine's Protection from Abuse Statutes"

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Amend the bill by inserting after the enacting clause and before section 1 the following:

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**'PART A'**

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Amend the bill in section 3 in c. 103 in §4113 in subsection 4 in the 2nd line (page 14, line 29 in L.D.) by inserting after the following: "4110" the following: 'an order issued pursuant to former section 4007 or an order that is similar to a protective order pursuant to section 4110 issued by a court of the United States or of another state, territory, commonwealth or federally recognized Indian tribe'

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Amend the bill in section 3 in c. 103 in §4113 by striking out all of subsection 5 (page 14, lines 32 to 37 in L.D.) and inserting the following:

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**'5. Repeat violations. A person who commits a violation under subsection 1 and has 2 or more prior convictions under subsection 1 or former section 4011, subsection 1 or 2 or more convictions for engaging in substantially similar conduct in another jurisdiction commits a Class C crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.'**

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Amend the bill in section 3 in c. 103 in §4114 in subsection 5 in paragraph A in the last line (page 15, line 17 in L.D.) by inserting after the following: "chapter" the following: 'or an order issued under former chapter 101'

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Amend the bill in section 3 in c. 103 in §4116 in subsection 1 in the 4th line (page 19, line 8 in L.D.) by striking out the following: "established pursuant to section 4115" and inserting the following: 'as established by Title 5, section 12004-I, subsection 74-C'

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

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**'Sec. 4. Transition.**

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**1. Appointments.** All members of the Maine Commission on Domestic and Sexual Abuse appointed under the Maine Revised Statutes, Title 19-A, former section 4013 and

**COMMITTEE AMENDMENT**

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1 serving in the appointed position on January 1, 2023 continue to serve as members of the  
2 commission under section 4115 for the remainder of the terms for which they were  
3 appointed. All members of the Domestic Abuse Homicide Review Panel appointed under  
4 Title 19-A, former section 4013, subsection 4 and serving in the appointed position on  
5 January 1, 2023 continue to serve as members of the review panel under section 4115,  
6 subsection 4 for the remainder of the terms for which they were appointed.

7 **2. Contracts and agreements.** All contracts, agreements and compacts of the Maine  
8 Commission on Domestic and Sexual Abuse in effect on January 1, 2023 continue in effect.

9 **3. Domestic violence intervention programs.** The certification by the Maine  
10 Commission on Domestic and Sexual Abuse of domestic violence intervention programs  
11 prior to January 1, 2023 is not affected by the repeal of Title 19-A, chapter 101, and the  
12 certified programs are deemed certified by the Maine Commission on Domestic and Sexual  
13 Abuse under Title 19-A, section 4116.

14 **4. Protection from abuse orders.** Protection from abuse orders issued under Title  
15 19-A, former chapter 101 before January 1, 2023 are valid and remain in effect as provided  
16 by the terms of the orders. Extension, modification and termination of those orders are  
17 governed by Title 19-A, chapter 103 on and after January 1, 2023. Any reference to  
18 modifying or enforcing an order issued pursuant to Title 19-A, chapter 103 applies to the  
19 modification or enforcement of an order issued under Title 19-A, former chapter 101.'

20 Amend the bill by inserting after section 4 the following:

21 **'Sec. 5. Legislative intent.** It is the intent of the Legislature that, in clarifying and  
22 recodifying the protection from abuse statutes and incorporating established case law for  
23 judicial economy and clarity, this Act make no substantive changes to existing law.

24 **PART B**

25 **Sec. B-1. 4 MRSA §183, sub-§1, ¶D,** as amended by PL 2015, c. 296, Pt. C, §1  
26 and Pt. D, §1, is further amended by amending subparagraph (2-A) to read:

27 (2-A) Parental rights and responsibilities and parent-child contact orders entered  
28 pursuant to Title 19-A, former section 4006, subsection 5 and, former section 4007,  
29 subsection 1, paragraph G and Title 19-A, section 4108, subsection 2 and section  
30 4110, subsection 3, paragraph I to make such orders consistent with subsequently  
31 entered orders in matters included in subparagraphs (1), (2) and (3);

32 **Sec. B-2. 7 MRSA §3906-B, sub-§9,** as amended by PL 2007, c. 439, §2, is further  
33 amended to read:

34 **9. Employees.** The commissioner, in consultation with the Animal Welfare Advisory  
35 Committee, shall employ, subject to the Civil Service Law, necessary employees to assist  
36 in enforcing this Part and in carrying out the commissioner's duties and responsibilities.  
37 The commissioner shall conduct a background check of a potential employee. The  
38 commissioner may not hire as a state humane agent a person who has been convicted of  
39 murder, a Class A or Class B offense, a violation under Title 17-A, chapter 9, 11, 12 or 13,  
40 a violation of Title 19-A, former section 4011 or Title 19-A, section 4113 or a criminal  
41 violation under Title 17, chapter 42 or a person who has been adjudicated of a civil violation  
42 for cruelty to animals under chapter 739 or who has been convicted or adjudicated in any

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1 other state, provincial or federal court of a violation similar to those specified in this  
2 subsection.

3 **Sec. B-3. 8 MRSA §231, sub-§4, ¶A**, as enacted by PL 1999, c. 671, §12, is  
4 amended to read:

5 A. Records of incidents of abuse by the applicant of family or household members  
6 provided pursuant to Title 19-A, section ~~4012~~ 4114, subsection 1;

7 **Sec. B-4. 10 MRSA §1310-H, sub-§2-A**, as enacted by PL 2019, c. 407, §1, is  
8 amended to read:

9 **2-A. Economic abuse.** Except as prohibited by federal law, if a consumer provides  
10 documentation to the consumer reporting agency as set forth in Title 14, section 6001,  
11 subsection 6, paragraph H that the debt or any portion of the debt is the result of economic  
12 abuse as defined in Title 19-A, section ~~4002~~ 4102, subsection ~~3-B~~ 5, the consumer reporting  
13 agency shall reinvestigate the debt. If after the investigation it is determined that the debt  
14 is the result of economic abuse, the consumer reporting agency shall remove any reference  
15 to the debt or any portion of the debt determined to be the result of economic abuse from  
16 the consumer's credit report.

17 **Sec. B-5. 14 MRSA §6000, sub-§1**, as enacted by PL 2015, c. 293, §1, is amended  
18 to read:

19 **1. Domestic violence.** "Domestic violence" means conduct described in Title 17-A,  
20 chapters 9, 11, 12 and 13; Title 17-A, sections 432, 433, 506, 506-A, 506-B, 758, 805, 806,  
21 852 and 853; and Title 19-A, section ~~4002~~ 4102, subsection 1, when the victim of that  
22 conduct or threat is a family or household member, as defined in Title 19-A, section ~~4002~~  
23 4102, subsection 4 ~~6~~, paragraphs A to E or dating partner, as defined in Title 19-A, section  
24 ~~4002~~ 4102, subsection ~~3-A~~ 4.

25 **Sec. B-6. 15 MRSA §891, sub-§2**, as enacted by PL 2007, c. 536, §1, is amended  
26 to read:

27 **2. Exceptions.** This section does not apply to the crime or juvenile crime of refusing  
28 to submit to arrest or detention as defined by Title 17-A, section 751-A, to any crime or  
29 juvenile crime in which the alleged victim is a family or household member as defined in  
30 Title 19-A, chapter ~~401~~ 103 or to any juvenile who has previously been adjudicated of a  
31 juvenile crime or who has previously obtained relief under this section with respect to a  
32 juvenile petition.

33 **Sec. B-7. 15 MRSA §1003, sub-§3-A, ¶B**, as enacted by PL 2011, c. 341, §1, is  
34 amended to read:

35 B. A violation of a protective order under Title 19-A, section ~~4011~~ 4113, the alleged  
36 victim of which is a family or household member as defined in Title 19-A, section ~~4002~~  
37 4102, subsection 4 ~~6~~, paragraphs A to E.

38 **Sec. B-8. 15 MRSA §1023, sub-§4, ¶B-1**, as amended by PL 2019, c. 113, Pt. C,  
39 §32, is further amended to read:

40 B-1. Set preconviction bail for a defendant alleged to have committed any of the  
41 following offenses against a family or household member as defined in Title 19-A,  
42 section ~~4002~~ 4102, subsection 4 ~~6~~:

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- (1) A violation of a protection from abuse order provision set forth in Title 19-A, former section 4006, subsection 5, paragraph A, B, C, D, E or F or; Title 19-A, former section 4007, subsection 1, paragraph A, A-1, A-2, B, C, D, E or G; Title 19-A, section 4108, subsection 2, paragraph B, subparagraphs (1) to (6); or Title 19-A, section 4110, subsection 3, paragraph A, B, C, D, E, F, G or I;
- (2) Any Class A, B or C crime under Title 17-A, chapter 9;
- (3) Any Class A, B or C sexual assault offense under Title 17-A, chapter 11;
- (4) Kidnapping under Title 17-A, section 301;
- (5) Criminal restraint under Title 17-A, section 302, subsection 1, paragraph A, subparagraph (4) or Title 17-A, section 302, subsection 1, paragraph B, subparagraph (2);
- (6) Domestic violence stalking that is a Class C crime under Title 17-A, section 210-C, subsection 1, paragraph B;
- (7) Domestic violence criminal threatening that is a Class C crime under Title 17-A, section 209-A, subsection 1, paragraph B or domestic violence criminal threatening that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1604, subsection 5, paragraph A;
- (8) Domestic violence terrorizing that is a Class C crime under Title 17-A, section 210-B, subsection 1, paragraph B or domestic violence terrorizing that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1604, subsection 5, paragraph A; or
- (9) Domestic violence reckless conduct that is a Class C crime under Title 17-A, section 211-A, subsection 1, paragraph B or domestic violence reckless conduct that is elevated to a Class C crime by the use of a dangerous weapon under Title 17-A, section 1604, subsection 5, paragraph A;

**Sec. B-9. 15 MRSA §1026, sub-§1**, as amended by PL 2007, c. 374, §3, is further amended by amending the first blocked paragraph to read:

Every order for the pretrial release of any defendant must include a waiver of extradition by the defendant and the conditions that the defendant refrain from new criminal conduct and not violate any pending protection from abuse orders pursuant to former Title 19, section 769 or Title 19-A, former section 4011 or Title 19-A, section 4113.

**Sec. B-10. 15 MRSA §1026, sub-§4, ¶C**, as amended by PL 2021, c. 397, §5, is further amended by amending subparagraph (11) to read:

- (11) Whether the defendant has previously violated conditions of release, probation or other court orders, including, but not limited to, violating protection from abuse orders pursuant to former Title 19, section 769 or Title 19-A, former section 4011 or Title 19-A, section 4113;

**Sec. B-11. 15 MRSA §1051, sub-§1**, as amended by PL 1997, c. 543, §12, is further amended by amending the last blocked paragraph to read:

Every order for post-conviction release of a defendant must include a waiver of extradition by the defendant as well as a condition of bail that the defendant refrain from new criminal

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1 conduct and not violate any pending protection from abuse order pursuant to former Title  
2 19, section 769, or Title 19-A, former section 4011 or Title 19-A, section 4113.

3 **Sec. B-12. 15 MRSA §1051, sub-§2**, as amended by PL 2007, c. 374, §12, is  
4 further amended by amending the first blocked paragraph to read:

5 In determining whether to admit a defendant to bail, the judge or justice shall consider the  
6 factors relevant to preconviction bail listed in section 1026, as well as the facts proved at  
7 trial, the length of the term of imprisonment imposed and any previous unexcused failure  
8 to appear as required before any court or the defendant's prior failure to obey an order or  
9 judgment of any court, including, but not limited to, violating a protection from abuse order  
10 pursuant to former Title 19, section 769 or, Title 19-A, former section 4011 or Title 19-A,  
11 section 4113.

12 **Sec. B-13. 15 MRSA §1094-B, sub-§1**, as amended by PL 2017, c. 66, §1, is  
13 further amended by amending the first blocked paragraph to read:

14 As used in this subsection, "family or household member" has the same meaning as in Title  
15 19-A, section ~~4002~~ 4102, subsection 4 6.

16 **Sec. B-14. 15 MRSA §1094-C, sub-§1**, as enacted by PL 2017, c. 432, Pt. A, §2,  
17 is amended by amending the first blocked paragraph to read:

18 As used in this subsection, "family or household member" has the same meaning as in Title  
19 19-A, section ~~4002~~ 4102, subsection 4 6, paragraphs A to E.

20 **Sec. B-15. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 2017, c. 148, §3, is  
21 further amended by amending subparagraph (5-A) to read:

22 (5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief,  
23 obstructing the report of a crime or injury or reckless conduct if the officer  
24 reasonably believes that the person and the victim are family or household  
25 members, as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6;

26 **Sec. B-16. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 2017, c. 148, §3, is  
27 further amended by amending subparagraph (13) to read:

28 (13) Violation of a protection order, as specified in Title 5, section 4659,  
29 subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769,  
30 subsection 2; former Title 19, section 770, subsection 5; Title 19-A, former section  
31 4011, subsection 3; and Title 19-A, former section 4012, subsection 5; Title 19-A,  
32 section 4113, subsection 3; and Title 19-A, section 4114, subsection 5;

33 **Sec. B-17. 17-A MRSA §207-A, sub-§1, ¶A**, as enacted by PL 2007, c. 436, §1  
34 and affected by §7, is amended to read:

35 A. The person violates section 207 and the victim is a family or household member as  
36 defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6. Violation of this paragraph  
37 is a Class D crime; or

38 **Sec. B-18. 17-A MRSA §207-A, sub-§1, ¶B**, as amended by PL 2019, c. 412, §1,  
39 is further amended to read:

40 B. The person violates paragraph A and at the time of the offense:

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1 (1) Has one or more prior convictions for violating paragraph A or for violating  
2 section 208-D, 208-E, 208-F, 209-A, 210-B, 210-C or 211-A or one or more prior  
3 convictions for engaging in conduct substantially similar to that contained in  
4 paragraph A or in section 208-D, 208-E, 208-F, 209-A, 210-B, 210-C or 211-A in  
5 another jurisdiction;

6 (2) Has one or more prior convictions for violating Title 19-A, former section  
7 4011, subsection 1 or Title 19-A, section 4113, subsection 1 or one or more prior  
8 convictions for engaging in conduct substantially similar to that contained in Title  
9 19-A, section ~~4011~~ 4113, subsection 1 in another jurisdiction;

10 (3) Has one or more prior convictions for violating Title 15, section 1092,  
11 subsection 1, paragraph B when the condition of release violated is specified in  
12 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
13 the alleged victim in the case for which the defendant was on bail was a family or  
14 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6; or

15 (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,  
16 and the State had pled and proved that the victim of the applicable prior conviction  
17 was a family or household member, as defined in Title 19-A, section ~~4002~~ 4102,  
18 subsection 4 6, or has one or more prior convictions in another jurisdiction for  
19 engaging in conduct substantially similar to that contained in section 208, 208-B  
20 or 208-C and it had been pled and proved that the victim was a family or household  
21 member.

22 Violation of this paragraph is a Class C crime.

23 **Sec. B-19. 17-A MRSA §208-D, sub-§1**, as enacted by PL 2019, c. 412, §2, is  
24 amended to read:

25 1. A person is guilty of domestic violence aggravated assault if that person:

26 A. Violates section 208, subsection 1, paragraph A and the victim is a family or  
27 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6.  
28 Violation of this paragraph is a Class B crime;

29 B. Violates section 208, subsection 1, paragraph A-1 and the victim is a family or  
30 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6.  
31 Violation of this paragraph is a Class A crime;

32 C. Violates section 208, subsection 1, paragraph B and the victim is a family or  
33 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6.  
34 Violation of this paragraph is a Class B crime; or

35 D. Violates section 208, subsection 1, paragraph C and the victim is a family or  
36 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6.  
37 Violation of this paragraph is a Class B crime.

38 **Sec. B-20. 17-A MRSA §208-E, sub-§1, ¶B**, as enacted by PL 2019, c. 412, §2,  
39 is amended to read:

40 B. The victim is a family or household member as defined in Title 19-A, section ~~4002~~  
41 4102, subsection 4 6.

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1           **Sec. B-21. 17-A MRSA §208-F, sub-§1, ¶B**, as enacted by PL 2019, c. 412, §2,  
2 is amended to read:

3           B. The victim is a family or household member as defined in Title 19-A, section ~~4002~~  
4 4102, subsection 4 6.

5           **Sec. B-22. 17-A MRSA §209-A, sub-§1, ¶A**, as enacted by PL 2007, c. 436, §2  
6 and affected by §7, is amended to read:

7           A. The person violates section 209 and the victim is a family or household member as  
8 defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6. Violation of this paragraph is  
9 a Class D crime; or

10           **Sec. B-23. 17-A MRSA §209-A, sub-§1, ¶B**, as amended by PL 2019, c. 412, §3,  
11 is further amended to read:

12           B. The person violates paragraph A and at the time of the offense:

13                   (1) Has one or more prior convictions for violating paragraph A or for violating  
14 section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A or one or more prior  
15 convictions for engaging in conduct substantially similar to that contained in  
16 paragraph A or in section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A in  
17 another jurisdiction;

18                   (2) Has one or more prior convictions for violating Title 19-A, former section  
19 4011, subsection 1 or Title 19-A, section 4113, subsection 1 or one or more prior  
20 convictions for engaging in conduct substantially similar to that contained in Title  
21 19-A, section ~~4011~~ 4113, subsection 1 in another jurisdiction;

22                   (3) Has one or more prior convictions for violating Title 15, section 1092,  
23 subsection 1, paragraph B when the condition of release violated is specified in  
24 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
25 the alleged victim in the case for which the defendant was on bail was a family or  
26 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6; or

27                   (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,  
28 and the State had pled and proved that the victim of the applicable prior conviction  
29 was a family or household member, as defined in Title 19-A, section ~~4002~~ 4102,  
30 subsection 4 6, or has one or more prior convictions in another jurisdiction for  
31 engaging in conduct substantially similar to that contained in section 208, 208-B  
32 or 208-C and it had been pled and proved that the victim was a family or household  
33 member.

34           Violation of this paragraph is a Class C crime.

35           **Sec. B-24. 17-A MRSA §210-A, sub-§1, ¶C**, as amended by PL 2019, c. 113, Pt.  
36 C, §59, is further amended by amending the last blocked paragraph to read:

37           For the purposes of this paragraph, "prior conviction" means a conviction for a  
38 violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19,  
39 section 769; Title 19-A, former section 4011 or Title 19-A, section 4113; Title 22,  
40 section 4036; any other temporary, emergency, interim or final protective order; an  
41 order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation; any similar  
42 order issued by any court of the United States or of any other state, territory,



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1 commonwealth or tribe; or a court-approved consent agreement. Section 9-A governs  
2 the use of prior convictions when determining a sentence;

3 **Sec. B-25. 17-A MRSA §210-B, sub-§1, ¶A**, as enacted by PL 2007, c. 436, §3  
4 and affected by §7, is amended to read:

5 A. The person violates section 210 and the victim is a family or household member as  
6 defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6. Violation of this paragraph  
7 is a Class D crime; or

8 **Sec. B-26. 17-A MRSA §210-B, sub-§1, ¶B**, as amended by PL 2019, c. 412, §4,  
9 is further amended to read:

10 B. The person violates paragraph A and at the time of the offense:

11 (1) Has one or more prior convictions for violating paragraph A or for violating  
12 section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or 211-A or one or more prior  
13 convictions for engaging in conduct substantially similar to that contained in  
14 paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or 211-A in  
15 another jurisdiction;

16 (2) Has one or more prior convictions for violating Title 19-A, former section  
17 4011, subsection 1 or Title 19-A, section 4113, subsection 1 or one or more prior  
18 convictions for engaging in conduct substantially similar to that contained in Title  
19 19-A, section ~~4011~~ 4113, subsection 1 in another jurisdiction;

20 (3) Has one or more prior convictions for violating Title 15, section 1092,  
21 subsection 1, paragraph B when the condition of release violated is specified in  
22 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
23 the alleged victim in the case for which the defendant was on bail was a family or  
24 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6; or

25 (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,  
26 and the State had pled and proved that the victim of the applicable prior conviction  
27 was a family or household member, as defined in Title 19-A, section ~~4002~~ 4102,  
28 subsection 4 6, or has one or more prior convictions in another jurisdiction for  
29 engaging in conduct substantially similar to that contained in section 208, 208-B  
30 or 208-C and it had been pled and proved that the victim was a family or household  
31 member.

32 Violation of this paragraph is a Class C crime.

33 **Sec. B-27. 17-A MRSA §210-C, sub-§1, ¶A**, as enacted by PL 2007, c. 436, §4  
34 and affected by §7, is amended to read:

35 A. The person violates section 210-A and the victim is a family or household member  
36 as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6. Violation of this paragraph  
37 is a Class D crime; or

38 **Sec. B-28. 17-A MRSA §210-C, sub-§1, ¶B**, as amended by PL 2019, c. 412, §5,  
39 is further amended to read:

40 B. The person violates paragraph A and at the time of the offense:

41 (1) Has one or more prior convictions for violating paragraph A or for violating  
42 section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 211-A or one or more prior

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- 1 convictions for engaging in conduct substantially similar to that contained in
- 2 paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 211-A in
- 3 another jurisdiction;
- 4 (2) Has one or more prior convictions for violating Title 19-A, former section
- 5 4011, subsection 1 or Title 19-A, section 4113, subsection 1 or one or more prior
- 6 convictions for engaging in conduct substantially similar to that contained in Title
- 7 19-A, section ~~4011~~ 4113, subsection 1 in another jurisdiction;
- 8 (3) Has one or more prior convictions for violating Title 15, section 1092,
- 9 subsection 1, paragraph B when the condition of release violated is specified in
- 10 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when
- 11 the alleged victim in the case for which the defendant was on bail was a family or
- 12 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6; or
- 13 (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,
- 14 and the State had pled and proved that the victim of the applicable prior conviction
- 15 was a family or household member, as defined in Title 19-A, section ~~4002~~ 4102,
- 16 subsection 4 6, or has one or more prior convictions in another jurisdiction for
- 17 engaging in conduct substantially similar to that contained in section 208, 208-B
- 18 or 208-C and it had been pled and proved that the victim was a family or household
- 19 member.

20 Violation of this paragraph is a Class C crime.

21 **Sec. B-29. 17-A MRSA §211-A, sub-§1, ¶A**, as enacted by PL 2007, c. 436, §5  
22 and affected by §7, is amended to read:

23 A. The person violates section 211 and the victim is a family or household member as  
24 defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6. Violation of this paragraph  
25 is a Class D crime; or

26 **Sec. B-30. 17-A MRSA §211-A, sub-§1, ¶B**, as amended by PL 2019, c. 412, §6,  
27 is further amended to read:

28 B. The person violates paragraph A and at the time of the offense:

29 (1) Has one or more prior convictions for violating paragraph A or for violating  
30 section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C or one or more prior  
31 convictions for engaging in conduct substantially similar to that contained in  
32 paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C in  
33 another jurisdiction;

34 (2) Has one or more prior convictions for violating Title 19-A, former section  
35 4011, subsection 1 or Title 19-A, section 4113, subsection 1 or one or more prior  
36 convictions for engaging in conduct substantially similar to that contained in Title  
37 19-A, section ~~4011~~ 4113, subsection 1 in another jurisdiction;

38 (3) Has one or more prior convictions for violating Title 15, section 1092,  
39 subsection 1, paragraph B when the condition of release violated is specified in  
40 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
41 the alleged victim in the case for which the defendant was on bail was a family or  
42 household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6; or

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(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

**Sec. B-31. 17-A MRSA §506-A, sub-§1, ¶A**, as amended by PL 2009, c. 246, §1, is further amended by amending subparagraph (1), division (b) to read:

(b) A court in a protective order issued under Title 5, section 4654 or 4655 or Title 19-A, former section 4006 or 4007 or Title 19-A, section 4108 or 4110; or

**Sec. B-32. 17-A MRSA §506-B, sub-§3**, as amended by PL 2005, c. 207, §1, is further amended to read:

**3.** Violation of a protection from abuse order issued under Title 19-A, section ~~4006~~ 4108 or ~~4007~~ 4110, subsection ~~3~~ 3, paragraphs A to G, is a Class D crime as provided in Title 19-A, section ~~4011~~ 4113, subsection 1 or a Class C crime as provided in Title 19-A, section ~~4011~~ 4113, subsection 4.

**Sec. B-33. 17-A MRSA §1501, sub-§9**, as amended by PL 2021, c. 174, §1, is further amended to read:

**9. Recognize domestic violence and certified domestic violence intervention programs.** Recognize domestic violence as a serious crime against the individual and society and to recognize domestic violence intervention programs certified pursuant to Title 19-A, section ~~4014~~ 4116 as the most appropriate and effective community intervention in cases involving domestic violence.

**Sec. B-34. 17-A MRSA §1603, sub-§2, ¶C**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

C. That the victim is a family or household member as defined in Title 19-A, section ~~4002~~ 4102, subsection 4 6, paragraphs A to E who is a victim of domestic violence committed by the convicted individual.

**Sec. B-35. 17-A MRSA §1801, sub-§1**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

**1. Dating partner.** "Dating partner" has the same meaning as in Title 19-A, section ~~4002~~ 4102, subsection ~~3-A~~ 4.

**Sec. B-36. 17-A MRSA §1801, sub-§2**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

**2. Family or household member.** "Family or household member" has the same meaning as in Title 19-A, section ~~4002~~ 4102, subsection 4 6, paragraphs A to E.

**Sec. B-37. 17-A MRSA §1801, sub-§3, ¶C**, as enacted by PL 2019, c. 113, Pt. A, §2, is amended to read:

1 C. A person who has obtained under Title 19-A, former section 4007 or Title 19-A,  
2 section 4110 an active protection order or approved consent agreement against the  
3 defendant.

4 **Sec. B-38. 17-A MRSA §1802, sub-§1, ¶B**, as amended by PL 2021, c. 447, §4,  
5 is further amended by amending subparagraph (3) to read:

6 (3) A Class D crime under Title 5, section 4659, subsection 1; Title 15, section  
7 321, subsection 6; ~~or~~ Title 19-A, former section 4011, subsection 1; or Title 19-A,  
8 section 4113;

9 **Sec. B-39. 17-A MRSA §1804, sub-§6**, as amended by PL 2021, c. 174, §2, is  
10 further amended to read:

11 **6. Exception to limits when person ordered to complete domestic violence**  
12 **intervention program and pay restitution.** If the State pleads and proves that the  
13 enumerated Class D or Class E crime was committed by the person against a family or  
14 household member and the court orders the person to complete a certified domestic  
15 violence intervention program as defined in Title 19-A, section ~~4014~~ 4116, the person may  
16 be placed on probation for a period not to exceed 2 years, except that, on motion by the  
17 person's probation officer, the person or the court, the term of probation must be terminated  
18 by the court when the court determines that the person has:

19 A. Served at least one year of probation;

20 B. Completed the certified domestic violence intervention program;

21 C. Paid in full any victim restitution ordered; and

22 D. From the time the period of probation commenced until the motion for termination  
23 is heard, met all other conditions of probation.

24 As used in this subsection, "enumerated Class D or Class E crime" means any Class D  
25 crime in chapter 9, any Class D or Class E crime in chapter 11, the Class D crimes described  
26 in sections 302 and 506-B and the Class D crimes described in sections 554, 555 and 758.

27 **Sec. B-40. 17-A MRSA §1807, sub-§2, ¶D-1**, as enacted by PL 2021, c. 174, §4,  
28 is amended to read:

29 D-1. Complete a certified domestic violence intervention program. The court may not  
30 order and the State may not pay for the person to attend a domestic violence  
31 intervention program unless the program is certified under Title 19-A, section ~~4014~~  
32 4116;

33 **Sec. B-41. 17-A MRSA §2106, first ¶**, as enacted by PL 2019, c. 113, Pt. A, §2,  
34 is amended to read:

35 Upon complying with subsection 1, a victim of a crime of murder or of a Class A, Class  
36 B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the  
37 defendant is committed to the Department of Corrections or to a county jail or is committed  
38 to the custody of the Commissioner of Health and Human Services either under Title 15,  
39 section 103 after having been found not criminally responsible by reason of insanity or  
40 under Title 15, section 101-D after having been found incompetent to stand trial must  
41 receive notification of the defendant's unconditional release and discharge from  
42 institutional confinement upon the expiration of the sentence or upon release from

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1 commitment under Title 15, section 101-D or upon discharge under Title 15, section 104-A;  
2 must receive notification of any conditional release of the defendant from institutional  
3 confinement, including probation, supervised release for sex offenders, parole, furlough,  
4 work release, funeral or deathbed visit, supervised community confinement, home release  
5 monitoring or similar program, administrative release or release under Title 15, section  
6 104-A; and must receive notification of the defendant's escape from the Department of  
7 Corrections, the custody of the Commissioner of Health and Human Services or the county  
8 jail to which the defendant is committed. For purposes of this section, "victim" also  
9 includes a person who has obtained under Title 19-A, former section 4007 or Title 19-A,  
10 section 4110 an active protection order or approved consent agreement against the  
11 defendant.

12 **Sec. B-42. 17-A MRSA §2107, last ¶**, as enacted by PL 2019, c. 113, Pt. A, §2, is  
13 amended to read:

14 For purposes of this section, "crime involving domestic violence" has the same  
15 meaning as in Title 15, section 1003, subsection 3-A and includes those crimes under  
16 section 152, subsection 1, paragraph A, section 208 and section 208-B when the victim is  
17 a family or household member as defined in Title 19-A, section 4002 4102, subsection 4 6,  
18 paragraphs A to E.

19 **Sec. B-43. 17-A MRSA §2301, sub-§1**, as enacted by PL 2019, c. 113, Pt. A, §2,  
20 is amended to read:

21 **1. Family or household member.** "Family or household member" has the same  
22 meaning as in Title 19-A, section 4002 4102, subsection 4 6.

23 **Sec. B-44. 19-A MRSA §852, sub-§4**, as enacted by PL 1995, c. 694, Pt. B, §2  
24 and affected by Pt. E, §2, is amended to read:

25 **4. Mutual order of protection or restraint.** Orders issued pursuant to this section  
26 do not supersede orders issued pursuant to former chapter 101 or chapter 103.

27 **Sec. B-45. 19-A MRSA §903, sub-§4**, as enacted by PL 1995, c. 694, Pt. B, §2  
28 and affected by Pt. E, §2, is amended to read:

29 **4. Mutual order of protection or restraint.** Orders issued pursuant to this section  
30 do not supersede orders issued pursuant to former chapter 101 or chapter 103.

31 **Sec. B-46. 19-A MRSA §1653, sub-§3, ¶O**, as amended by PL 2001, c. 665, §1,  
32 is further amended to read:

33 O. A parent's prior willful misuse of the protection from abuse process in former  
34 chapter 101 or chapter 103 in order to gain tactical advantage in a proceeding involving  
35 the determination of parental rights and responsibilities of a minor child. Such willful  
36 misuse may ~~only~~ be considered only if established by clear and convincing evidence,  
37 and if it is further found by clear and convincing evidence that, in the particular  
38 circumstances of the parents and child, that willful misuse tends to show that the acting  
39 parent will in the future have a lessened ability and willingness to cooperate and work  
40 with the other parent in their shared responsibilities for the child. The court shall  
41 articulate findings of fact whenever relying upon this factor as part of its determination  
42 of a child's best interest. The voluntary dismissal of a protection from abuse petition

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1 may not, taken alone, be treated as evidence of the willful misuse of the protection from  
2 abuse process;

3 **Sec. B-47. 19-A MRSA §1653, sub-§5-A**, as enacted by PL 2001, c. 273, §1, is  
4 amended to read:

5 **5-A. Effect of protective order.** Although the court shall consider the fact that a  
6 protective order was issued under former chapter 101 or chapter 103, the court shall  
7 determine the proper award of parental rights and responsibilities and award of rights of  
8 contact de novo and may not use as precedent the award of parental rights and  
9 responsibilities and rights of contact included in the protective order.

10 **Sec. B-48. 22 MRSA §1727, sub-§1**, as reallocated by RR 2015, c. 1, §18, is  
11 amended to read:

12 **1. Service of protection from abuse order.** A law enforcement agency may request  
13 that a hospital provide access to a defendant who is receiving care in the hospital for the  
14 purpose of serving a protection from abuse order pursuant to Title 19-A, section ~~4006~~,  
15 ~~subsection 6~~ 4107.

16 A. The hospital shall provide the law enforcement agency with an opportunity to serve  
17 the defendant personally with the order at a time the hospital determines is clinically  
18 appropriate with due consideration to the medical condition of the defendant.

19 B. A hospital may disclose that the defendant is a patient to facilitate service under  
20 this section regardless of patient consent.

21 **Sec. B-49. 22 MRSA §3028, sub-§12**, as enacted by PL 2005, c. 88, Pt. A, §2, is  
22 amended to read:

23 **12. Report to domestic abuse panel.** If the Chief Medical Examiner determines that  
24 a death resulted from criminal conduct and that the victim was pregnant at the time of death,  
25 the Chief Medical Examiner shall send a copy of any report prepared under this section to  
26 the Domestic Abuse Homicide Review Panel created pursuant to Title 19-A, section ~~4013~~  
27 4115.

28 **Sec. B-50. 22 MRSA §4008, sub-§2, ¶E**, as amended by PL 2005, c. 300, §5, is  
29 further amended to read:

30 E. A person having the legal responsibility or authorization to evaluate, treat, educate,  
31 care for or supervise a child, parent or custodian who is the subject of a record, or a  
32 member of a panel appointed by the department to review child deaths and serious  
33 injuries, or a member of the Domestic Abuse Homicide Review Panel established  
34 under Title 19-A, section ~~4013~~ 4115, subsection 4. This includes a member of a  
35 treatment team or group convened to plan for or treat a child or family that is the subject  
36 of a record. This may also include a member of a support team for foster parents, if  
37 that team has been reviewed and approved by the department;

38 **Sec. B-51. 22 MRSA §4036, sub-§1, ¶I**, as amended by PL 2021, c. 174, §12, is  
39 further amended to read:

40 I. The court may not order and the State may not pay for the defendant to attend a  
41 domestic violence intervention program unless the program is certified under Title  
42 19-A, section ~~4014~~ 4116.

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**Sec. B-52. 24-A MRSA §2159-B, sub-§1**, as enacted by PL 2001, c. 16, §1, is amended to read:

**1. Discrimination prohibited.** An insurer, nonprofit hospital and medical service organization or health maintenance organization that issues life, health or disability coverage may not deny, cancel, refuse to renew or restrict coverage of any person or require the payment of additional charges based on the fact or perception that the person is, or may become, the victim of domestic abuse, under Title 19-A, section ~~4002~~ 4102. This subsection does not prohibit applying an underwriting or rating criterion to a victim of domestic abuse based on physical or mental history or other factors of general applicability regardless of the underlying cause and in accordance with the requirements of section 2159, subsections 1 and 2. An insurer, nonprofit hospital and medical service organization or health maintenance organization may not be held criminally or civilly liable for any cause of action that may result from compliance with this subsection. This subsection does not prohibit an insurer, nonprofit hospital and medical service organization or health maintenance organization from declining to issue coverage to an applicant known to be, or to have been, an abuser of the proposed insured.

**Sec. B-53. 25 MRSA §2003, sub-§4, ¶A**, as amended by PL 1995, c. 694, Pt. D, §51 and affected by Pt. E, §2, is further amended to read:

A. Information of record relative to incidents of abuse by the applicant of family or household members, provided pursuant to Title 19-A, section ~~4012~~ 4114, subsection 1;

**Sec. B-54. 25 MRSA §2003, sub-§5**, as amended by PL 1995, c. 694, Pt. D, §52 and affected by Pt. E, §2 and amended by PL 2005, c. 236, §§3 and 4, is further amended to read:

**5. Access to confidential records.** Notwithstanding that certain records retained by governmental entities are by law made confidential, the records pertaining to patient committals to Riverview Psychiatric Center and Dorothea Dix Psychiatric Center, and records compiled pursuant to Title 19-A, section ~~4012~~ 4114, subsection 1, that are necessary to the issuing authority's determination of the applicant's good moral character and compliance with the additional requirements of this section and of section 2005 must, at the request of the issuing authority, be made available for inspection by and dissemination to the issuing authority.

**Sec. B-55. 25 MRSA §2473, sub-§5, ¶A**, as enacted by PL 1999, c. 652, §9, is amended to read:

A. Records of incidents of abuse of family or household members by the applicant provided pursuant to Title 19-A, section ~~4012~~ 4114, subsection 1;

**Sec. B-56. 25 MRSA §2803-B, sub-§1, ¶D**, as repealed and replaced by PL 2015, c. 329, Pt. A, §14, is amended by amending subparagraph (4) to read:

(4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section ~~4006~~ 4108 or ~~4007~~ 4110 are served on the defendant as quickly as possible; and

**Sec. B-57. 25 MRSA §2804-C, sub-§2-C**, as amended by PL 2013, c. 147, §30, is further amended to read:

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1           **2-C. Receipt of firearms; training; procedure; liability.** The Maine Criminal  
2 Justice Academy shall provide training for municipal, county and state law enforcement  
3 officers regarding the proper handling, storage, safekeeping and return of firearms and  
4 firearm accessories received pursuant to a court order under Title 19-A, section ~~4006~~ 4108,  
5 subsection ~~2-A 3~~ or Title 19-A, section ~~4007~~ 4110, subsection ~~1, paragraph A-1 4~~. Such  
6 training must include education concerning the prohibitions on the purchase or possession  
7 of a firearm when a protection order has been obtained and communication with parties to  
8 protection orders concerning such prohibitions.

9 In developing materials for training in domestic violence issues, the Maine Criminal Justice  
10 Academy may consult with a statewide organization involved in advocacy for victims of  
11 domestic violence and with an organization having statewide membership representing the  
12 interests of firearms owners.

13 A law enforcement officer who receives custody of a firearm pursuant to Title 19-A, section  
14 ~~4006~~ 4108, subsection ~~2-A 3~~ or Title 19-A, section ~~4007~~ 4110, subsection ~~1, paragraph A-1~~  
15 4 shall exercise reasonable care to avoid loss, damage or reduction in value of the firearm  
16 and may not permanently mark the firearm or fire the firearm unless there is reasonable  
17 suspicion that the firearm has been used in the commission of a crime. Any liability for  
18 damage or reduction in value to such a firearm is governed by Title 14, chapter 741.

19           **Sec. B-58. 25 MRSA §2806-A, sub-§5, ¶K**, as amended by PL 2021, c. 255, §2,  
20 is further amended by amending subparagraph (1) to read:

21           (1) The officer was engaged in an investigation or purported investigation  
22 involving an allegation of abuse, as defined in former Title 19, section 762,  
23 subsection 1 and, in Title 19-A, former section 4002, subsection 1 and in Title  
24 19-A, section 4102, subsection 1;

25           **Sec. B-59. 26 MRSA §850, sub-§1**, as amended by PL 2001, c. 685, §1, is further  
26 amended by amending the first blocked paragraph to read:

27 The leave must be needed because the employee or the employee's daughter, son, parent or  
28 spouse is a victim of violence, assault, sexual assaults under Title 17-A, chapter 11, stalking  
29 or any act that would support an order for protection under Title 19-A, chapter ~~101~~ 103.  
30 An employer may not sanction an employee or deprive an employee of pay or benefits for  
31 exercising a right granted by this section.

32           **Sec. B-60. 32 MRSA §8105, sub-§4, ¶A**, as amended by PL 1995, c. 694, Pt. D,  
33 §56 and affected by Pt. E, §2, is further amended to read:

34           A. Records of incidents of abuse by the applicant of family or household members  
35 provided pursuant to Title 19-A, section ~~4012~~ 4114, subsection 1;

36           **Sec. B-61. 32 MRSA §9405, sub-§2-C, ¶A**, as amended by PL 1995, c. 694, Pt.  
37 D, §57 and affected by Pt. E, §2, is further amended to read:

38           A. Information of record relative to incidents of abuse by the applicant of family or  
39 household members; provided pursuant to Title 19-A, section ~~4012~~ 4114, subsection  
40 1;

41           **Sec. B-62. 32 MRSA §9405, sub-§4, ¶B**, as amended by PL 1995, c. 694, Pt. D,  
42 §58 and affected by Pt. E, §2, is further amended to read:



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1 B. The records compiled pursuant to Title 19-A, section ~~4012~~ 4114, subsection 1;

2 **Sec. B-63. 32 MRSA §9410-A, sub-§5, ¶B**, as amended by PL 1995, c. 694, Pt.  
3 D, §59 and affected by Pt. E, §2, is further amended to read:

4 B. The records compiled pursuant to Title 19-A, section ~~4012~~ 4114, subsection 1;

5 **Sec. B-64. 34-A MRSA §1206-A, sub-§1, ¶B**, as amended by PL 2021, c. 174,  
6 §13, is further amended to read:

7 B. "Community intervention program" means a program operated at the community  
8 level providing services designed to intervene in the risk factors for reoffending,  
9 including, but not limited to, mental health, sex offender treatment, social service and  
10 substance use disorder treatment programs, but not including a domestic violence  
11 intervention program under Title 19-A, section ~~4014~~ 4116.

12 **Sec. B-65. Effective date.** This Act takes effect January 1, 2023.'

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

15 **SUMMARY**

16 This amendment makes technical corrections to the bill and includes legislative intent  
17 and transition sections. Part B makes cross-reference corrections.

18 The amendment adds an effective date of January 1, 2023.

19 **FISCAL NOTE REQUIRED**

20 (See attached)



# 130th MAINE LEGISLATURE

LD 1696

LR 1600(02)

**An Act To Clarify and Recodify Maine's Protection from Abuse Statutes**

**Fiscal Note for Bill as Amended by Committee Amendment "A" (S-516)**

**Committee: Judiciary**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund

### Fiscal Detail and Notes

Additional costs to the Department of Corrections associated with rulemaking can be absorbed within existing budgeted resources.