

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

SECOND SPECIAL SESSION

November 18, 1983

AND AT THE

SECOND REGULAR SESSION

January 4, 1984 to April 25, 1984

AND AT THE

THIRD SPECIAL SESSION

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
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J.S. McCarthy Co., Inc.
Augusta, Maine
1986

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND ELEVENTH LEGISLATURE
JANUARY 4, 1984 TO APRIL 25, 1984

Effective July 25, 1984.

CHAPTER 619

H.P. 1396 - L.D. 1819

AN ACT to Reenact a Provision for Protective Orders in Crimes Between Family Members.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, in 1979 the Legislature enacted a law to allow judges to issue protective orders as a condition of bail or probation for certain crimes between family members; and

Whereas, this law contained a sunset provision that resulted in the automatic repeal of the law concerning protective orders on November 1, 1983; and

Whereas, the Legislature inadvertently failed to repeal this sunset provision, but has acted to repeal the sunset provision of other provisions of the state's domestic violence law; and

Whereas, the continuing ability of judges to issue protective orders in cases of certain crimes between family members is vital to the family members subject to violent crimes; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

15 MRSA c. 12-A is enacted to read:

CHAPTER 12-A

CRIMES BETWEEN FAMILY MEMBERS

§321. Protective orders in crimes between family members

1. Definition. For purposes of this section, "family or household members" means spouses or former spouses, individuals presently or formerly living as spouses, natural parents of the same child or adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute "living as spouses."

2. Grounds for order. The court may issue a protective order if:

A. A person is charged with or convicted of a violation of Title 17-A, sections 201 to 204, 207 to 211, 252, 253, 301 to 303, 506-A or 556;

B. The offender and the victim are family or household members; and

C. The court finds that there is a likelihood that the offender may injure the health or safety of the victim in the future.

3. Scope of order. A protective order may be a condition of release. It may require the offender:

A. To stay away from the home, school, business or place of employment of the victim;

B. Not to visit, or to visit only at certain times or under certain conditions, a child residing with the victim; or

C. Not to do specific acts which the court finds may harass, torment or threaten the victim.

4. Issuance of order. The clerk may issue, without fee, a copy of a protective order, amendment or revocation to the offender, the victim and, as the court directs, to the law enforcement agencies most likely to enforce it.

5. Appeal. A court decision may be appealed as provided by the Maine Rules of Civil Procedure.

6. Penalty. Violation of a protective order, when the person has prior actual notice of the order, is a Class D crime. Notwithstanding any statutory provision to the contrary, an arrest for violation of a protective order may be without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. The law enforcement officer may verify, if necessary, the existence of a protective order by telephone or radio communication with a law enforcement agency with knowledge of the order.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective February 22, 1984.

CHAPTER 620

H.P. 1430 - L.D. 1875

AN ACT to Amend the Probate Code to Provide for
Temporary Guardianships Under Certain
Emergency Conditions.

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

18-A MRSA §5-310, as amended by PL 1983, c. 72, is further amended by adding at the end a new paragraph to read:

A petition for temporary guardianship may be brought before any judge if the judge of the county in which venue properly lies is unavailable. If a judge, other than the judge of the county in which venue properly lies, acts on a petition for temporary guardianship, he shall issue a written order and shall endorse upon it the date and time of the order. He shall then forthwith transmit or cause to be transmitted that order to the register of the county in which venue properly lies. Any order issued by a judge of a county, other than the county in which venue properly lies, shall be deemed to have been entered in the docket on the date and at the time endorsed upon it.

Effective July 25, 1984.

CHAPTER 621

S.P. 748 - L.D. 2052

AN ACT Prohibiting Release of Animals by
State Humane Agents for Experimentation or
Vivisection Purposes.