

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 13, 1993

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

C. A listing of all property transactions pursuant to section 13080-D;

D. An accounting of all activities of any special utility district formed under section 13080-E;

E. A listing of any property acquired by eminent domain under section 13080-G;

F. A listing of any bonds issued during the fiscal year;

G. A statement of the authority's proposed and projected activities for the ensuing year; and

H. Recommendations regarding further actions that may be suitable for achieving the purposes of this article.

Sec. 2. Report to committee; second regular session. The Loring Development Authority of Maine shall report to the Joint Standing Committee on Housing and Economic Development to the Second Regular Session of the 116th Legislature no later than April 1, 1994.

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

Effective July 13, 1993.

CHAPTER 475

H.P. 1147 - L.D. 1546

An Act Concerning Stalking

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

Sec. 1. 5 MRSA §4654, sub-§4, as enacted by PL 1987, c. 515, §1, is amended to read:

4. Interim relief. The court, in an ex parte proceeding, may enjoin the defendant from engaging in any of the following:

- A. Imposing any restraint upon the person or liberty of the plaintiff;
- B. Threatening, assaulting, molesting, harassing or otherwise disturbing the peace of the plaintiff;
- C. Entering the plaintiff's residence; ~~or~~
- D. Taking, converting or damaging property in which the plaintiff may have a legal interest; or
- E. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

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

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

Sec. 2. 5 MRSA §4655, sub-§1, as amended by PL 1987, c. 708, §5, is further amended to read:

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the harassment alleged, may grant any protection order or approve any consent agreement to bring about a cessation of harassment, which may include:

- A. Directing the defendant to refrain from harassing, threatening, assaulting, molesting, attacking or otherwise abusing the plaintiff;
- B. Directing the defendant to refrain from going on the premises of the plaintiff's residence;
- C. Directing the defendant to refrain from interference with the plaintiff's property;

C-1. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff; or

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

D. Ordering payment of monetary compensation to the plaintiff for losses suffered as a direct result of the harassment. ~~Compensatory losses shall be~~ are limited to loss of earnings or support; reasonable expenses incurred for personal injuries or property damage; and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded. If it appears from the petition that an order under this paragraph may be granted, the plaintiff or defendant may remove the issue of monetary compensation to the Superior Court where a jury trial may be had. ~~Removal shall~~ must be requested by motion prior to a hearing under section 4654;

E. Ordering the defendant to pay court costs or reasonable ~~attorneys~~ attorney's fees; and

F. Entering any other orders ~~deemed determined~~ necessary or appropriate in the discretion of the court.

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

Sec. 3. 17-A MRSA §15, sub-§1, ¶A, as corrected by RR 1991, c. 2, §50, is amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, criminal threatening or terrorizing, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 321;
- (6) Theft as defined in section 357, when the value of the services is \$1,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (8) Negotiating a worthless instrument, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (9) A violation of a condition of probation when requested by an official of the Division of Probation and Parole;
- (10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1051, subsections 2 and 9; and Title 15, section 1092; ~~or~~
- (11) Theft involving a detention under Title 17, section 3521; ~~and~~

(12) Harassment, as set forth in section 506-A; ~~or~~

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; Title 19, section 769, subsection 2; and Title 19, section 770, subsection 5; and

Sec. 4. 17-A MRSA §506-A, sub-§1, as amended by PL 1987, c. 736, §36, is further amended to read:

1. A person is guilty of harassment if, without reasonable cause, ~~he~~ that person engages in any course of conduct with the intent to harass, torment or threaten another person, after having been forbidden to do so by any sheriff, deputy sheriff, constable, police officer or justice of the peace or by a court in a protective order issued under Title 5, section 4654 or 4655 or Title 19, section 765 or 766.

Sec. 5. 17-A MRSA §506-A, sub-§2, as amended by PL 1991, c. 566, §2, is further amended to read:

2. Harassment is a Class E crime, except that when the defendant has 2 or more prior Maine convictions for violations of this section in which the victim was the same person or a member of that victim's immediate family, violation of this section is a Class C crime. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior ~~convictions~~ offenses may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of ~~a~~ the commission of ~~prior offenses~~ the offense being enhanced is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 6. 17-A MRSA §506-B is enacted to read:

§506-B. Violation of protective order

1. Violation of a protection from harassment order issued under Title 5, section 4654 or 4655, subsection 1, paragraphs A to C-1, is a Class D crime as provided in Title 5, section 4659, subsection 1.

2. Violation of a protective order in crimes between family members issued under Title 15, section 321 is a Class D crime as provided in Title 15, section 321, subsection 6.

3. Violation of a protection from abuse order issued under Title 19, section 765 or 766, subsection 1, paragraphs A to E, is a Class D crime as provided in Title 19, section 769, subsection 1.

Sec. 7. 19 MRSA §762, sub-§1, ¶¶D and E, as enacted by PL 1989, c. 862, §7, are amended to read:

D. Knowingly restricting substantially the movements of another person without that person's consent or other lawful authority by: removing that person from that person's residence, place of business or school; moving that person a substantial distance from the vicinity where that person was found; or confining that person for a substantial period either in the place where the restriction commences or in a place to which that person has been moved; ~~or~~

E. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed; or

Sec. 8. 19 MRSA §762, sub-§1, ¶F is enacted to read:

F. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

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

Sec. 9. 19 MRSA §765, sub-§4, as amended by PL 1991, c. 760, §9, is further amended to read:

4. Interim relief. The court, in an ex parte proceeding, may make an order concerning the care and custody of any minor children residing in the household and may enjoin the defendant from engaging in any of the following:

A. Imposing any restraint upon the person or liberty of the plaintiff;

B. Threatening, assaulting, molesting, harassing, attacking or otherwise disturbing the peace of the plaintiff;

C. Entering the family residence or the residence of the plaintiff; ~~or~~

C-1. Repeatedly and without reasonable cause:

(1) Following the plaintiff; or

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

D. Taking, converting or damaging property in which the plaintiff may have a legal interest.

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

Sec. 10. 19 MRSA §766, sub-§1, as amended by PL 1991, c. 760, §§10 and 11, is further amended to read:

1. Protection order; consent agreement. The court, after a hearing and upon finding that the defendant has committed the alleged abuse, may grant any protective order or, upon making that finding, approve any consent agreement to bring about a cessation of abuse. This subsection does not preclude the parties from voluntarily requesting a consent agreement without a finding of abuse. Relief granted under this section may include:

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

B-1. Directing the defendant to refrain from going upon the premises of the plaintiff's residence;

B-2. Directing the defendant to refrain from repeatedly and without reasonable cause:

(1) Following the plaintiff; or

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

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

(1) Granting or restoring possession of the residence or household to one party with the exclusion of the other; or

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

D. Ordering a division of the personal property and the household goods and furnishings of the

parties and placing any protective orders considered appropriate by the court;

E. Either awarding temporary custody of minor children or establishing temporary visitation rights with regard to minor children when the visitation is determined to be in the best interest of the child, or both;

F. Requiring the defendant to receive counseling from a social worker, family service agency, mental health center, psychiatrist or any other guidance service that the court considers appropriate;

G. Ordering the payment of temporary support for the dependent party, or any child in the dependent party's custody in accordance with chapter 7, subchapter I-A, or both, when there is a legal obligation to support that person, that child, or both;

H. Ordering the payment of temporary support payments to the State as provided in chapter 7;

I. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses are limited to loss of earnings or support, reasonable expenses incurred for personal injuries or property damage and reasonable moving expenses. Upon the motion of either party, for sufficient cause, the court may set a later hearing on the issue of the amount of damages, if any, to be awarded;

J. Ordering the defendant or, if the complaint is dismissed, the plaintiff, to pay court costs or reasonable attorney fees; or

K. Entering any other orders determined necessary or appropriate in the discretion of the court.

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

See title page for effective date.

CHAPTER 476

H.P. 1142 - L.D. 1542

An Act to Encourage Implementation of Total Quality Management Procedures in the Executive Branch of State Government

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

Whereas, State Government exists to provide services to citizens, and it is incumbent on state employees to provide the best service to "customers" of State Government in the most efficient and effective manner possible; and

Whereas, while providing quality service it is important that every state worker have a stake in the success and improvement of State Government to make the most of accrued talent and experience; and

Whereas, both private and public sector organizations have found success in the total quality management approach to customer service and management, resulting in a more motivated and productive work force, as well as efficiencies and cost savings; and

Whereas, pursuant to Resolve 1991, chapter 73, total quality management procedures in State Government must be in place by the beginning of the 1994-95 biennium and need coordination, oversight and direction to accomplish the above goals; 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:

Sec. 1. 5 MRSA §§49 and 50 are enacted to read:

§49. Maine Quality Management Council

The Maine Quality Management Council, as established by section 12004-I, subsection 77-A and referred to in this section as the "council," is created to guide total quality management in the executive branch of State Government, to promote the delivery of quality services to customers of State Government and to empower state workers in addressing the challenges and responsibilities of State Government.

1. Membership. The Governor is a member of the council and serves as the chair of the council. The Governor shall appoint the following members to the council:

A. Representatives of each executive branch department;

B. Representatives of other departments and agencies of State Government that choose to participate;

C. Representatives of each of the employee unions representing state employees as designated by each union; and