

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

4. Violation. A person is guilty of a Class E crime if a law enforcement officer has probable cause to believe the person violated or is violating this Title and the person intentionally fails or refuses upon request to give the person's correct name, address or date of birth to a law enforcement officer.

See title page for effective date.

CHAPTER 658

H.P. 1410 - L.D. 1906

An Act To Amend the Protection from Harassment Laws

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

Sec. 1. 5 MRSA §4652, as amended by PL 1995, c. 650, §2, is further amended to read:

§4652. Filing of complaint; jurisdiction

Proceedings under this chapter must be filed, heard and determined in the District Court of the division in which either the plaintiff or the defendant resides. If the plaintiff has left the plaintiff's residence to avoid harassment, the plaintiff may bring an action in the division of the plaintiff's previous residence or new residence.

The District Court has jurisdiction over protection from harassment ~~petitions~~ complaints. If a District Court judge is not available in the division in which a complaint requesting a temporary order is to be filed, the complaint may be presented to any other District Court judge or to any Superior Court justice who has the same authority as a District Court judge to grant or deny the temporary order.

A juvenile may be a party to an action under this chapter only when the juvenile has a representative through whom the action is brought or defended pursuant to the Maine Rules of Civil Procedure, Rule 17(b). The Department of Human Services may act as a representative of the juvenile. If any notice or service is required by this chapter, the notice or service must be provided to both the juvenile and the juvenile's representative.

Sec. 2. 5 MRSA §4653, sub-§1, as amended by PL 1995, c. 560, §3, is further amended to read:

1. Filing; police report. ~~Any~~ A person who has been a victim of harassment, including a business, may seek relief by filing a sworn ~~petition~~ complaint in an appropriate court alleging that harassment.

Sec. 3. 5 MRSA §4653, sub-§2, as enacted by PL 1987, c. 515, §1, is amended to read:

2. Assistance. The court shall provide separate forms with a summons and clerical assistance to assist either party to proceed under this chapter in completing and filing a ~~petition~~ complaint or other necessary documents. This assistance ~~shall~~ may not include legal advice or assistance in drafting legal documents.

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

1. Full hearing; alternative dispute resolution. ~~Within 21 days of the filing of a petition, a~~ A hearing ~~shall~~ must be held at which the plaintiff shall prove the allegation of harassment by a preponderance of the evidence.

Sec. 5. 5 MRSA §4654, sub-§2, as amended by PL 1995, c. 650, §4, is further amended to read:

2. Temporary orders. The court may enter any temporary orders, authorized under subsection 4, without written or oral notice to the defendant or the defendant's attorney if:

A. It appears clearly from a verified ~~petition~~ complaint or an affidavit accompanying the ~~petition~~ complaint that:

(1) Before the defendant or the defendant's attorney can be heard, the plaintiff or the plaintiff's employees may be in immediate and present danger of physical abuse from the defendant or in immediate and present danger of suffering extreme emotional distress as a result of the defendant's conduct, or the plaintiff's business property is in immediate and present danger of suffering substantial damage as a result of the defendant's actions;

(2) Either the plaintiff has or has not contacted any law enforcement officials concerning the alleged harassment; and

(3) The plaintiff has provided sufficient information to substantiate the alleged harassment;

B. When reasonable, the plaintiff or the court has made reasonable efforts to give written or oral notice to the defendant or the defendant's attorney that the plaintiff is seeking a temporary order; and

C. The court provides written reasons for entering a temporary order.

Sec. 6. 5 MRSA §4654, sub-§3, as amended by PL 1991, c. 760, §3, is further amended to read:

3. Emergency relief. Emergency relief ~~shall be~~ is available as follows.

A. When there is no judge available in the District Court having venue or the District Court courthouse is closed and no other provision can be made for protection of a victim of harassment, a ~~petition~~ complaint may be presented to any judge of the District Court or Justice of the Superior Court. Upon a meeting of the requirements of subsection 2, the court may enter any temporary orders, authorized under subsection 4, as the court considers necessary to protect the plaintiff from harassment.

B. If a ~~petition~~ complaint is presented under this subsection, the ~~petition~~ complaint and any order issued pursuant to the ~~petition~~ complaint must be immediately certified to the clerk of the District Court having venue for filing. This certification to the court has the effect of commencing proceedings and invoking the other provisions of this chapter.

C. An order ~~shall remain~~ remains in effect pending a hearing pursuant to subsection 1.

Sec. 7. 5 MRSA §4654, sub-§5, as amended by PL 2001, c. 134, §2, is further amended to read:

5. Service of order. If the court issues a temporary order or orders emergency or interim relief, the court shall order a law enforcement agency or, if the defendant is present in the courthouse, a court security officer qualified pursuant to Title 4, section 17, subsection 15 to serve the defendant personally with the order, the ~~petition~~ complaint and the summons.

Sec. 8. 5 MRSA §4655, sub-§1, ¶D, as amended by PL 1995, c. 265, §9, is further amended to read:

D. Ordering payment of monetary compensation to the plaintiff for losses suffered as a direct result of the harassment. Compensatory losses are limited to loss of earnings or support; reasonable expenses incurred for safety protection; 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~~ complaint 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 must be requested by motion prior to a hearing under section 4654;

See title page for effective date.

CHAPTER 659

S.P. 730 - L.D. 1884

An Act To Strengthen the Enforcement Provisions of the Maine Health Data Organization

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

Sec. 1. 22 MRSA §8705, as amended by PL 2003, c. 452, Pt. K, §§28 and 29 and affected by Pt. X, §2, is repealed.

Sec. 2. 22 MRSA §8705-A is enacted to read:

§8705-A. Enforcement

The board shall adopt rules to ensure that payors and providers file data as required by section 8704, subsection 1; that users that obtain health data and information from the organization safeguard the identification of patients and health care practitioners as required by section 8707, subsections 1 and 3; and that payors and providers pay all assessments as required by section 8706, subsection 2.

1. Definitions. As used in this section, unless the context otherwise indicates, the following definitions of "intentionally" and "knowingly" apply to this section.

A. A person acts intentionally with respect to a result of that person's conduct when it is that person's conscious object to produce such a result.

B. A person acts knowingly with respect to a result of that person's conduct when the person is aware that it is practically certain that that person's conduct will cause such a result.

2. Rulemaking. The board shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. The rules may contain procedures for monitoring compliance with this chapter. Rules adopted pursuant to this subsection must include a schedule of fines for:

A. Failure to file data;

B. Failure to pay assessments; and

C. Intentionally or knowingly and without authorization using or disseminating health care information that directly or indirectly identifies patients or health care practitioners performing abortions as defined in section 1596.