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1981

AN EVALUATION OF PROTECTION FROM FAMILY ABUSE IN MAINE

Prepared by
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TABLE OF CONTENTS

Abstract.....	1
I. Purpose.....	2
II. The Family Abuse Statute: Changes in the Law....	4
III. Methodology.....	6
IV. Data.....	11
A. Interviews	
Police.....	11
Shelter Workers.....	16
Victims.....	20
B. Court Files.....	21
Table 1--Comparative Requests for Protection From Abuse for the First Six Months of 1979 and 1981..	22
Table 2--Sex of Victims of Domestic Violence.....	24
Table 3--Disposition of Criminal Cases of Domestic Violence.....	24
Table 4--Disposition of Civil Domestic Abuse Cases for the First Six Months of 1981.....	25
Table 5--Comparative Protection for the First Six Months of 1979 and 1981 of Fine, Incarceration or Protective Order.....	26
Table 6--Comparison of Uniform Crime Reports for Domestic Assault and Overall Domestic Abuse for the First Six Months of 1981.....	28
V. Conclusion.....	29
Appendix A--The Problem and the Laws.....	i
Appendix B--Interview Questions.....	viii
Appendix C--The Act.....	x
Footnotes.....	xxi



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Abstract

The Act concerning family abuse in Maine passed in January 1980 with a sunset provision of November 1983. The question of its effectiveness is addressed by this study. Data were gathered in four jurisdictions from criminal and civil district court records and from interviews with police officers. Family crisis shelter workers and victims were also interviewed. The study concludes that the new domestic violence statute properly addresses needs of protection and prevention. The overall implementation of the law has been effective.



I. Purpose

The new family abuse statute, entitled An ACT Concerning Abuse Between Family or Household Members, went into effect July 3, 1980. This law, found at 19 M.R.S.A. §761, et. seq., (1980), was passed with a sunset provision of November 1, 1983. In light of the uncertain future of this law, the Maine Civil Liberties Union designed a study addressing the question of whether or not the statute should be permanently enacted. The issue of continuation of the new family abuse statute is considered from two perspectives: equal protection and practical effectiveness.

The primary analysis is based on a constitutional theory of equal protection. The extent of protection available to victims of domestic violence prior to the new law was minimal, at best, and was generally considered ineffective. As is reported in more detail in the following section, the old laws tied the hands of the police in responding to domestic abuse. Moreover, the very nature of the relationship of perpetrator and victim works against the system of protection formerly available. Because the victim typically lives with the assailant, family abuse involves a criminal situation significantly different from most. Any remedies that do not address the special problems created by the proximity and relationship between victim and assailant are bound to fail to protect victims from continuing abuse. In particular,

restrictions on the authority of police officers to arrest the assailant make continued assaults possible once police leave the scene. Furthermore, the harshness and delay involved in pursuing a criminal complaint (the only remedy available prior to the new Act) effectively limited the use of that remedy. The victim faces the possibility of reprisals, may suffer by loss of support for any criminal penalties ultimately applied, and may be genuinely ambivalent about treating someone he or she loves as a criminal.

The second point for the equal protection analysis is the fact that the vast majority of the victims of domestic violence are women. If the old laws did not properly protect a class of victims made up almost exclusively of women, the old laws were in violation of the victims' constitutional rights to equal protection. The hypothesis of this study was that, prior to the new law, women were disproportionately suffering from violence without meaningful recourse, but that subsequent to the passage of the law, the availability of appropriate protection has been significantly improved.

The second aspect of the study involves analysis of evidence concerning the implementation and effectiveness of the law. Does the new law address the needs of those involved in situations of domestic violence in a way that the old laws did not? Is there any evidence that it broadens the protection available to victims of family abuse in the state of Maine? Are there flaws in the law that prevent its full implementation? Answers to these questions were sought from those most closely involved with domestic violence: police, family crisis workers and victims.

II. The Family Abuse Statute: Changes in the Law

A simplified discussion of the effects of the new law is included at this point. A detailed analysis of the law and important background information on the problem of domestic violence is found in Appendix A.

The primary change introduced by the law is the availability of a civil route of protection to victims of abuse. Police officers arriving on the scene inform the parties as to their rights and responsibilities. The victim is no longer confined to criminal prosecution as a means of protection. Victims may immediately file a civil complaint and affidavit in either the District or Superior Court. These papers are sent to a judge and the victim is routinely granted a temporary order of protection. This order is effective for approximately 21 days, or until there is a final hearing. The accused assailant may challenge a protective order at the final hearing or at any time prior to that point, after giving the complainant two days' notice. Final orders of protection range in length from a few months to a year.

The substance of most protective orders, both temporary and final, typically prevents the accused assailant from entering the family residence. Other elements of a protective order may include directives that prohibit the accused from threatening or harassing the complainant; taking or damaging property; or the granting of temporary custody of children.

Changes in the criminal aspects of domestic violence

laws are also significant. The police may now exercise a power of warrantless arrest in two areas not previously available to them. The first area concerns the initial arrival of the police on a scene of domestic violence. Officers may use their discretion to decide whether or not to arrest the assailant. If the evidence indicates the victim is endangered they may use the act of arrest without a warrant to effectively intervene. The prior laws required the police, in practice, to return to the scene again and again, unable to arrest the assailant unless they actually saw the victim assaulted.

The second aspect of warrantless arrest attaches to violations of protective orders. In contrast to the above described discretionary ability of the police to arrest without a warrant on the scene of a domestic dispute, officers are required to arrest a person who violates either a temporary or final protective order.

III. Methodology

The researcher gathered data from civil and criminal district court files and interviewed police officers, family crisis shelter workers and victims of domestic violence. Four areas were targeted for data collection: Portland, Brunswick, Springvale/Sanford and South Paris/Norway. The areas were chosen to sample a variety of communities of different size and location, based on the volume of district court cases heard in one year.¹ The proximity of the areas to Portland was also a factor in selection. Although these four districts cannot be said to represent the whole of Maine, there is no reason to suppose that their experience with domestic violence and the implementation of the statute vary widely from other areas of the state.

Interviews

In order to gather evidence concerning the nature and problem of the implementation of the new statute, interviews were undertaken with police officers, workers in family crisis centers, and victims who had initiated but then dropped their pursuit of civil remedies available under the statute.

Personal interviews were conducted with police officers. A supervising officer in each department selected the interviewees. The researcher requested access to a variety of viewpoints, stressing the need to discover the

workings of the law in practice. The majority of officers interviewed were those who work the beat; only those who have had some contact with domestic violence were interviewed. A total of 23 police officers were interviewed, with a breakdown of Portland-10; Brunswick-4; Sanford-5; South Paris/Norway-4. ²

Interviews with workers in five of seven family crisis shelters were conducted in person or by telephone. Shelter programs contacted were in Portland, Augusta, Saco, Bangor and Presque Isle, yielding eight interviews.

Telephone interviews were conducted with a small sample of victims of domestic abuse. An attempt was made to reach the group of victims who dismissed their orders of protection or who de facto dismissed them by not appearing for the final hearing. After gathering the names and addresses of these victims from the civil court files, telephone numbers were obtained from public directories. The time required in this procedure was high while the yield was low. For this reason the victim sample was curtailed after seven interviews. Nonetheless the data derived from these interviews contributes to our understanding of the ways in which the law may protect even those victims who do not pursue the legal channels available to them.

These groups were selected with the objective of contacting the people most closely involved with the implementation of the law. Potentially valuable groups, such as judges, court clerks, district attorneys and lawyers were excluded

due to time and resource limitations. The questions used for the interviews are included in Appendix B.

Court Files

Data were collected from court records for a period before and a period after the implementation of the law in order to learn the frequency with which the new law is employed and to draw conclusions about the degree to which the new law has opened up protection to victims who might have none under the old statutes.

Data from the criminal court files of the district courts were taken from the first six months of 1979 and the first six months of 1981. The criminal docket books were first checked for potential domestic violence cases: all cases described as assault (simple and aggravated), criminal trespass, criminal mischief, criminal threatening, criminal restraint, terrorizing, disorderly conduct, harassment, homicide, and (for the 1981 cases) violation of a protective order. The docket numbers of these cases were recorded and then the original complaints were pulled for further analysis.

The next step was to determine the relationship between victim and assailant--did the parties share a relationship as defined in the family abuse statute? (See Appendix B, §762.) If the surname was the same, the assumption was made that their relationship qualified. If the names were different, however, other descriptive data were sought to determine

the relationship. For example, a party might be described as a "boyfriend" or a statement might be quoted in the complaint such as, "You better get home or I'll blow your head off," allowing the inference of a relationship. Occasionally, in smaller courts, the clerks were able to identify a relationship between the parties when the information in the complaint did not.

When a positive relationship determination was made the disposition of the case was recorded. The dispositions included whether or not there was a fine, incarceration or probation, recording the details of each; whether the victim dropped the charges; whether the state did not prosecute for other reasons; or whether the case was "filed."³

The civil files of the four district courts for the first six months of 1981 were also examined to discover the frequency of civil protection orders. Since the new abuse statute created the option of civil protection there are no equivalent records for 1979; the 1981 civil figures compare to a 1979 absolute zero. These files were checked for the total number of complaints and the number of complaints which were dropped before the final hearing or were subsequently dismissed. For those complainants who had dropped the order or dismissed, information was collected for follow up telephone interviews.

Data from the Uniform Crime Reporting (UCR) system were also gathered for comparison. The domestic assaults reported by police to UCR for the first six months of 1981 are included

and compared to the overall domestic abuse found by this study for the same time period.

IV. Data

A. Interviews

1. Police

A total of 23 police officers were interviewed. Every officer interviewed described the new law as an improvement and recommended retention. A situation of domestic violence occurring prior to the family abuse statute was one of helplessness for all but the assailant. The police could not arrest an abuser without a warrant unless there was an aggravated assault committed or the officer actually saw the abuser commit an assault. Officers frequently would return again and again to a single family in one night, unable to arrest and therefore, unable to protect the victim. The current law expands the range of probable cause needed to arrest a party in a domestic dispute. The police no longer must wait while a woman becomes progressively bruised until they finally witness an assault. Officers believe they are now empowered by the law, as they were not previously, to diffuse notoriously volatile situations.

Although all the officers interviewed described the new law as an improvement, about half of the officers had some reservations as well. Officer discontent centered on the provision of the law requiring mandatory arrest if a court order of protection is violated. This resentment was found in the smaller police departments of South Paris and Norway and in a portion of the Portland department. The officers stated two criticisms: abuse of the law by women, and the

loss of considerable police discretion. When questioned further, officers cited instances when the victimized woman "violated" her own order of protection by inviting the male assailant back home. It is apparent that most officers do not follow the letter of the law in this instance, which requires arrest, but simply tell the man to leave. All officers but one said they would arrest if the violator did not leave. The few officers expressing the strongest dissatisfaction with the mandatory arrest provision speculated that some women were conniving and out to entrap the men by inviting them over with the intent of then calling the police. No officer offered any factual support for this theory. All officers agreed that these situations are exceptional.

A great many of the police officers who reported complete satisfaction with the law reported an initial dissatisfaction. They stated that officers respond negatively to losing any of their discretion, and thus the mandatory arrest provisions of the statute disturbed them. These officers said they have seen how effective the law is and have grown to appreciate clear legal guidelines for such difficult and highly charged situations. One sergeant of the Portland department responded wryly, "You've got good cops and you've got bad cops, and the bad cops aren't going to like this." He continued to speculate that as officers grow more familiar with the law they will see it as an effective

tool, and feel less threatened by its mandatory arrest provision.

A provision of the law requires that, if no arrest is made, officers give the victim of domestic abuse immediate written notice of the rights and relief available. The interviews were extremely revealing in this area. The Brunswick police department reported that they ran out of the initial supply of information cards many months ago, and now merely read victims their rights. The officers stated they thought the cards were good, and wanted to get more, but no one was producing them. On the other hand, Norway and South Paris take the responsibility for xeroxing a supply of information sheets, typed at the police department, and report they do hand them out to the victims. Sanford police officers uniformly hand out cards to victims. Portland police, while having an adequate supply of written information sheets, are not uniform in handing them out. Approximately 50% of the officers give victims written notice. A great number of the police interviewees reported the involvement of alcohol in domestic disputes, and many noted how useful a written notice is to these people in particular. This is because the verbally communicated information is forgotten by the next day while the written notice may be used as a reference.

The police were interviewed concerning the amount and adequacy of training they received for domestic violence in general and the new law in particular. Nearly all felt they had received sufficient training in both aspects of family

abuse. Most felt that the crisis intervention training received was useful, but felt with certainty the only real training came on the job. Although the interviews were not designed to quiz the officers on their knowledge of the law, one glaring area of ignorance did emerge. Nearly all the officers interviewed in all towns had no awareness of the (alleged) abuser's right to challenge a temporary order of protection. A person who is ordered out of his house by the court, on the sworn word of the complainant, need not wait three weeks until the final hearing but may challenge an order after giving the complainant two days' notice of the intent to challenge.

Some of the police complaints about the law in fact express an underlying frustration with the continuing problem of domestic violence. A difficulty continually cited by police is the problem of repeat callers, the couples who seem bound in a relationship of endless conflict which neither party will terminate. The police emphasize that repeat callers and victims who get protective orders and drop them make frustrating work for the police officer. One officer in particular referred to these people as "scumbags" and "riff-raff" and exploded in anger, "They just tie up the cruisers!" Although most officers balanced their frustration

with a perception of their job as one of crisis intervention, this sense of frustration may have been increased by the new law rather than reduced for some officers. These officers now expect the victims to use the new law to permanently change or end the relationship and express resentment when they do not. The new statute may thus be viewed unrealistically by some police officers as a solution to the problem of domestic violence itself. Clearly it is not. Thus the suggestion of a Portland sergeant, closely involved with the domestic violence problem, might be significant -- better education of officers in the psychology of abusers and victims.

A variety of recommendations has emerged from the police interviews. A consistent cry was made for sustaining the family crisis shelter network, at minimum, and expanding it, if possible. Education of court clerks was another need mentioned. An officer in one department described the clerk as being overtly unhelpful to victims, and this impression was confirmed by the researcher's contact with the clerk. Examples of her misinformation include telling victims to go to the district attorney for complaint papers, and telling them that if they dropped a protective order they would never get another one. Some clerks respond negatively to the law because it increases their paperwork without an obvious benefit.

Besides educating clerks and maintaining shelters, recommendations were made for increased public education.

Reportedly, many women don't know about the law until they call the police, and more than one officer grumbled "we're not educators!" A final observation made by many officers was a need for increased resources for the district attorney's office. In particular the police feel that when victims back down from pressing charges when a protective order is violated, a crime against the state has been committed and prosecution should go ahead. All realized that resources are strained and a charge with a victim unwilling to pursue is likely to be dropped. In a moment of wishful thinking an officer speculated on the need for a division of the district attorney's office specifically devoted to family and sexual abuse.

2. Family Crisis Shelter Workers

Shelter workers were interviewed from Portland, Augusta, Saco, Bangor and Presque Isle. All of these people, so closely linked to domestic violence problems and policies, view the law with complete approval. They see the law as a vast improvement over prior conditions and recommend its retention.

The shelter worker's perceptions of police response is that it is positive. In each shelter area a worker knew of a community where police response was reputedly poor, but they cited the law as instrumental in bringing about the needed change of attitude. The most noticeable gap the shelter workers saw in proper enforcement

is in the failure to exercise the mandatory warrantless arrest upon violation of a protective order. The shelter workers fear that such practice will weaken the effectiveness of the law. Word is passed along "on the street", and abusers soon learn what they can and cannot do in practice, despite provisions on the books.

Shelter workers were asked about the high rate of attrition for women who seek help from the courts. As is illustrated in the section below, a high percentage of victims who receive temporary orders of protection never appear for the final hearing, and a significant number of other women who receive final orders subsequently void them. Three reasons were reported by workers: threats, love and fear. First, they pointed out that a victim's partner may threaten her with brutality worse than that already suffered. If she is uncertain of the ability of the police to protect her, she may drop an order for the sake of her safety as well as for the safety of her children. Love, or charming persuasion, is the most often cited reason for women dropping orders. Domestic violence is cyclical, and the "hearts and flowers" stage following the explosion can be extremely powerful. A variation on this is the reported instance of women bargaining with their mates-- agreeing to drop the order if he promises to get counseling.

Finally, the shelter workers asserted that women who have known nothing but dependence their entire lives may be

extremely fearful of an independent life. Economic survival alone, often with children to feed, may appear so impossible that a woman will decide to maintain the abusive relationship.

The shelter workers shared the same frustration at this pattern of attrition that the police expressed. However, shelter workers often place their observations of attrition in the context of a psychological understanding of the dynamics involved. One Portland worker described any small step taken by a victim as being one step closer to self control. When a victim files a complaint, she is moving "to empower herself", to reject domination by another. The failure to follow through does not negate this step, some shelter workers argued. Despite this growth, or process-oriented point of view, shelter workers watched for developing patterns of repeated attrition or manipulation. A victim who has allowed herself to be dependent on her abuser is not allowed to transfer her dependency needs to the shelter staff. Generally, a woman may only come to a shelter twice.

Worker response to questions about training was clear. They felt police training at the Maine Criminal Justice Academy was excellent. They identified the judicial branch as in great need of training and education. Judges, prosecutors and clerks have received no training, ostensibly because "they're professionals" and should pick it up on their own. Although all shelter workers recognized the range of sensitivity and knowledge in this group, all knew of a significant number of instances where ignorance in the

sphere of domestic abuse was patent. Court clerks were singled out as a group particularly ripe for training, because they are in contact with victims at a crucial time and have a good deal of influence over the victims' response.

Recommendations by the shelter workers to some degree mirrored those by the police. First and foremost was a call for maintenance of shelters. Again echoing the police, shelter workers see educating the public that domestic abuse is a crime to be an important goal.

Three other recommendations were voiced, one of which is not uniformly agreed upon. The most controversial recommendation, independently made by one shelter worker and supported by another worker and some police officers, is aimed at preventing victim "misuse" of the law. It was suggested that whenever a victim who has previously voided an order, or who ignored a final hearing, files for another order of protection, her entire file would be sent to the judge. This would lessen the likelihood of the victim receiving further orders of protection as would it, in principle, lessen the number of complaints that are dropped. Most shelter workers vehemently opposed this as a solution, while others acknowledged its harshness but felt it a necessary step to keep the law meaningful.

An alternative approach to preventing victim attrition is the use of victim advocate assistance programs. Suggestions

for format were varied, but all workers agreed that victims should be counseled before they file a complaint. The purpose of this counseling would be to ensure that the women knew what the law entailed and to ensure that they were willing to follow through. A final area of recommendation lay in treatment of the abuser. While there are a few counseling groups for batterers, all workers felt expansion in this area would be useful.

3. Victims

Victims who were on record as having dismissed their orders of protection were contacted in order to discover why they dismissed these orders. Of the seven women interviewed the breakdown is as follows:

- Four victims said the temporary order had served its purpose. They were separated from their mates, described the relationships as finished, and reported they had not been bothered by the abusers after the order.
- One victim said the order made the abuser pull himself together. He finally got a job and she reported that the relationship was stable.
- One victim was furious that her order was dismissed. She reported that the judge dismissed the case. Although she stated that her husband is still abusive, she has not tried to get another protective order.
- One victim was apparently misinformed by the Cumberland

County Sheriff's office. She stated that she was told that if she saw her husband after an order was granted she would be committing a felony.

Clearly, some of the dismissed orders served their purpose for the victims. One need not conclude that a dismissed order indicates a failure of the law or its implementation. On the other hand, misinformation by police and court officials may itself lead to some of the dismissals about which they (and the victims) complain.

B. Court Files

The statistics collected for this study compare the frequency of complaints regarding domestic abuse during a six month period prior to the enactment of the law with another six month period subsequent to its passage.⁴ The hypothesis was that prior to the new law most victims of domestic violence were not being adequately protected from abuse. The only available system of protection was the criminal justice system. The premise of the new statute is that this system was ill-suited to most abuse victims and that a change of the laws would widen the availability of protection.

Unfortunately, the domestic abuse statistics collected from the criminal files for both years may underrepresent the actual incidence of domestic abuse for several reasons.

First, in following up the cases drawn initially from the docket books, it was found that a portion of the complaints were either lost or misfiled. This problem was compounded for 1981 because some of these files were in use and were thus not available. Finally, it was difficult to determine the nature of the relationship between the parties. That is, it is not always apparent from the criminal complaint whether or not the relationship between the complainant and the accused falls within the scope of the family abuse act. Despite these problems, there is no reason to suppose the contrast between the 1979 and 1981 figures is any less meaningful. If the totality of domestic abuse recorded in this study is underreported, it is reasonable to assume that it is equally underreported for both 1979 and 1981.⁵

Table 1
COMPARATIVE REQUESTS FOR PROTECTION FROM DOMESTIC ABUSE
FOR THE FIRST SIX MONTHS OF 1979 AND 1981

		1979	1981	Increase
Portland	criminal	30	38	
	civil	-	80	293%
	total	30	118	
Brunswick	criminal	4	2	
	civil	-	11	225%
	total	4	13	
Springvale	criminal	10	9	
	civil	-	18	170%
	total	10	27	
South Paris	criminal	6	12	
	civil	-	11	283%
	total	6	23	

Table 1 combines the civil and criminal complaints in 1981 and compares them to the volume of similar criminal complaints in 1979 when no civil remedy was available. These figures illustrate the vast increase of requests for protection from domestic abuse since the new law went into effect. They support the hypothesis of this study: victims of domestic violence are better protected from abuse under the new law than under the old. Portland showed a high of a 293% increase while Springvale had the lowest increase of 170%. Brunswick and South Paris increased 225% and 283% respectively.

It is possible that these increased requests for protection are reflective only of an increase in domestic violence between 1979 and 1981. Assuming that domestic violence would increase commensurate with the increase of crime in general, the statistics show an increase of requests for protection far beyond the general increase in crime found in this study.⁶ In Portland, the 293% increase in domestic violence is matched against only a 74% increase in overall crime. Brunswick crime increased 34%, Springvale crime increased 78% and South Paris crime decreased by 22%. The increases in requests for protection from domestic abuse are substantially larger than the increases of overall crime.

Table 2
SEX OF VICTIMS OF DOMESTIC VIOLENCE

	Men	Women
Portland	5	143
Brunswick	0	17
Springvale	1	36
South Paris	<u>1</u>	<u>28</u>
Total	7	224

Table 2 illustrates that the class of victims of domestic violence is overwhelmingly female. Men make up only 3% of the class of victims of family abuse. The numbers in this table include both civil and criminal complaints for both 1979 and 1981.

Table 3
DISPOSITION OF CRIMINAL CASES OF DOMESTIC VIOLENCE

		Fine or Incarcer- ation	Victim withdrew charges	Not Prose- cuted	Filed	Not avail- able
Portland	'79	4	3	8	1	0
	'81	4	2	2	4	7
Brunswick	'79	1	0	0	3	0
	'81	0	0	0	2	0
Springvale	'79	4	0	4	1	1
	'81	4	2	2	1	0
So. Paris	'79	2	0	4	0	0
	'81	4	2	2	2	2

Table 4
DISPOSITION OF CIVIL DOMESTIC ABUSE CASES
FOR THE FIRST SIX MONTHS OF 1981

	Complaints Filed	Complaints Dismissed	Active Protective Orders
Portland	80	34	58%
Brunswick	11	2	82%
Springvale	18	12	33%
So. Paris	11	4	64%

Table 3 breaks down the dispositions of domestic abuse cases brought in the criminal court system. There is significant overlap within the three categories of "victim withdrew charges," "not prosecuted," and "filed." "Not prosecuted" cases may include instances where the victim withdrew the charges or failed to appear, as well as instances of the ambiguous description "witness failed to appear." Cases which are "filed" are, in practical result, the same as those not prosecuted. (See footnote 3.) What is notable in this breakdown of dispositions is the small number of complaints which resulted in any penalty. Springvale and South Paris prosecuted 40% and 33%, respectively, of the domestic abuse criminal complaints. Portland and Brunswick prosecuted between 20% and 25%. All of these figures remain fairly consistent from 1979 to 1981. The results of most of these prosecutions were fines of \$50 or less.⁷

Table 4 illustrates the level of attrition from the system by victims who file complaints for civil orders of

protection. In Springvale 67% of the complainants either did not appear in court for their final order of protection or affirmatively dismissed the order. Only 18% of Brunswick victims dismissed their complaints while Portland and South Paris had a dismissal rate of 42% and 36%, respectively. The relationship between Springvale's high rate of attrition and the antipathy of the Springvale district court clerk toward the law is worth noting. (See Police Interview, p. 15.) The data collected from the civil court files did not include any information beyond the fact that the case was dismissed. Often there was a notation that the complainant "didn't show" or that the complainant requested that the protective order be dropped, while other civil files simply ended after the granting of a temporary order of protection.

Table 5

COMPARATIVE PROTECTION FOR THE FIRST SIX MONTHS OF 1979 AND 1981
OF FINE, INCARCERATION OR PROTECTIVE ORDER

	1979	1981
Portland	4	84
Brunswick	1	11
Springvale	4	22
South Paris	2	15

An inference often drawn when civil protective orders are not followed through to their final stage is that the process followed and the papers filed served no purpose.

The information gathered from the victim interview suggests that this is not the case. Over half of these women stated that the temporary order served its purpose and terminated the relationship between the parties. Moreover it is clear that the temporary order does serve the function of effectively separating the parties in a time of crisis. The temporary order provides the woman with protection that may extend up to a year or may be curtailed by the woman prior to the final hearing. Regardless of whether a couple reconciles, even if the reconciliation only begins another cycle of violence, the temporary protective order served a valuable purpose of granting a necessary "cool off" period, presumably preventing further violence.

Assuming that even a complaint which lacks follow through serves a valid protective function, Table 5 illustrates vividly the levels of protection received in 1979 and 1981. This compares the criminal complaints that were actually prosecuted in 1979 with the combination of prosecuted criminal complaints and requests for civil protection in 1981. In Portland over twenty times as many victims of domestic violence received protection, and in Brunswick there were over ten times as many. South Paris experienced over a seven fold increase and Springvale exhibited over a five fold increase of protection received by victims of family abuse.

Table 6

COMPARISON OF UNIFORM CRIME REPORTS FOR DOMESTIC ASSAULT
AND OVERALL DOMESTIC ABUSE FOR THE FIRST SIX MONTHS OF 1981

	UCR Domestic Assaults	Civil and Criminal Domestic Complaints
Portland	54	128
Brunswick	8	13
Sanford	6	27
South Paris	0	23

One of the purposes of the new family abuse statute was to collect statistics concerning the prevalence of domestic violence in Maine. Uniform Crime Reporting (UCR) is receiving monthly reports from the police departments citing the frequency of "domestic assaults." The data from this study includes a wide range of abuse which may not carry the label "assault." Table 6 compares the UCR figures for domestic assault for the first six months of 1981 with the figures from this study for overall domestic abuse for the same time period. The UCR statistics, limited to assaults reported by the police, have measured a level of family abuse less than what may have occurred in fact. The variance in Table 6 may be inflated due to the fact that the jurisdictions from which the figures are drawn are not identical. The combined court records of civil and criminal complaints encompass a larger jurisdiction than the police department assault data. Nonetheless, these figures are suggestive of the possibility of underreporting of domestic abuse to UCR.

V. Conclusion

The data gathered from court files and interviews with police officers, shelter workers and victims have brought the researcher to a full endorsement of the family abuse statute and a recommendation of retention of this law in November 1983. The law properly addresses equal protection difficulties inherent in the old system of protection. There is a need to educate the police to inform the accused of the right to challenge protective orders. The practical aspects of the appropriateness and proper enforcement of the law also appear positive.

The equal protection theory rests on a two pronged analysis. First, old laws did not address the protection needs of victims of domestic violence. Secondly, victims of domestic violence are overwhelmingly women. Tables 1 and 2 support these propositions. Requests for protection from domestic abuse increased over 200% more than requests for protection from crime in general. The new law clearly answers a need that was previously unaddressed. Women make up 97% of this class of persons affected by laws addressing crimes of adult family violence. The old laws affected a disproportionate number of women in a negative way while the new statute provides improved protection to this class of victims.

Both police officers and shelter workers expressed con-

cern over the high rate of attrition from the system of protection by victims. The implication is that persons who withdraw from the (civil) system of protection have not benefited from the system. If this is true, the impact of the new law appears less strong. Police officers often see dropped complaints as inherently frivolous and find them frustrating. Shelter workers fear that, to the extent this view is shared by police, judges and prosecutors, all complaints by abused victims may be seen as frivolous. The average rate of attrition, or withdrawal from the civil system at some point after receipt of a temporary order, is 41%.

This definition of attrition as failure is not supported by the data. The victim interviews, while limited in number, are strongly suggestive of the usefulness of a temporary order without follow through. For many women a temporary order is the needed impetus to end an abusive relationship. Some women do not voluntarily dismiss their own orders, and some may be radically misinformed as to the nature of a protective order. One woman, for instance, was under the impression she would be committing a felony if she saw her husband after receiving a protective order.

Two other lines of reasoning challenge the view that attrition is equal to failure. First it is important to understand the process of growth from dependence to independence. Battered women must learn to empower themselves, psychologically and economically. Such progression is a step by step process, and must build upon itself. To

move to obtain even short term protection is a step toward changing an unhealthy relationship. The second line of reasoning that challenges the view of attrition as failure is analogous to the functioning of our entire legal system. The vast majority of our legal controversies are negotiated and settled out of court. Some assault victims too use the threat of formal prosecution as a bargaining chip in ending a relationship or renegotiating the terms of a continuing relationship. We do not view our legal system as a failure because most cases do not come into court, and we should not view victims of domestic violence who step outside of the formal process as failures. If this reasoning is correct, personnel involved in family abuse should become aware of it so that misperception of "frivolous" complaints does not jeopardize enforcement.

The practical level of effectiveness and proper implementation of the new domestic violence statute is generally excellent. The police like the law because it gives them authority to intervene in violent situations where they previously could do very little. Shelter workers report that they see a tremendous amount of police cooperation. They view the law as an important tool in building that cooperation.

This generally positive report concerning implementation of the law by the police must be qualified by a discussion of two areas of need. First, there is uneven compliance with the mandatory arrest provision for violation of a protective order. This portion of the law is extremely important, but

the police often use their discretion in practice. The sort of instance the police feel warrants discretion is when a victim invites an abuser to the house, contrary to a valid protective order. The researcher does not recommend modifying the mandatory arrest provision, but suggests increased education of the recipients of such orders as to the associated limits and responsibilities. Secondly, there is uneven compliance with the provision requiring written notice to the victims of their rights. The researcher recommends clarification of the party responsible for printing such information cards. It appears that police departments could maintain their own supply fairly easily but that some will not unless this is clarified as a legal responsibility.

A further area of practical effectiveness of the law involves its third purpose of data collection. (See Appendix B, §761(3)). It appears that the statistics collected by Uniform Crime Reporting for domestic assaults will result in an underreporting of the level of domestic abuse in the state of Maine. This underreporting may reflect the variance between a reporting system collecting data on domestic assaults and a statute defining domestic violence in terms of a broader array of crimes. It is not being suggested that the system of reporting be revamped, but rather that the variance of the two sets of statistics should be noted when the extent of the domestic violence problem is being assessed by the legislature.

A number of recommendations emerged from the interviews with the police and the shelter workers. The researcher endorses the suggestions of maintenance or expansion of the family crisis shelter network and of training and educating the court clerks. The system of protection from domestic abuse cannot function without a system of support. Court clerks are in contact with victims at a particularly vulnerable time. If this initial contact with the helping system is discouraging, the victim may forego further involvement. The researcher does not endorse the suggestion of sending a repeat victim's entire folder of requests for help to the judge. This suggestion seems harsh and counter-productive. The argument has been made that attrition from the system is not necessarily a failure. To institute a procedure which would penalize the individual for a former lack of follow-through simply denies the chance for future protection, without deterring others from dismissing complaints. Follow-through by victims to final orders of protection may not be necessary for the viability of this new law.

In sum, the Act Concerning Abuse Between Family or Household Members should become a permanent part of the body of Maine law. Domestic violence is a complex problem, involving legal, psychological and societal issues. No law can eradicate family abuse, any more than other laws eradicate other crimes. When a class of persons purportedly protected by laws are in fact not protected, and when this class of

victims is, in fact, primarily women, there is a constitutional need to change the laws. The new family abuse act has done just that. The crime of domestic violence has not disappeared, but those who are victimized from it are now protected in a more viable way than ever before. When more than one-third of the murders in the state are related to domestic disputes, the seriousness of the problem cannot be compromised.⁸ A law which has a clearly positive impact on domestic abuse should be maintained.

THE PROBLEM ⁹

Domestic violence is a serious problem both in Maine and in the rest of the United States. Growing national concern over domestic violence is reflected in books, magazine articles, legal analyses, and empirical studies which have appeared on the subject in recent years. The literature and the people who have dealt with the problem first-hand, as victims, law enforcement officers, or other crisis intervention personnel, report that domestic violence is a continuing nightmare for its victims and is one of the most dangerous areas for law enforcement personnel.

Accurate statistics are not yet available on the prevalence of domestic violence, largely because of underreporting by both victims and police. The F.B.I. estimates that less than one in ten incidents of abuse between spouses is reported. Nevertheless, estimates of agencies and organizations dealing with various aspects of the problem of domestic violence convey some idea of the scope of the problem nationwide:

— The National Center on Women and Family Law in New York and the Center for Women Policy Studies in Washington, D.C. both believe, based on extensive reviews of available information, that abuse between spouses occurs in 12 percent of all households nationwide.

— The Women's Bureau of the Department of Labor estimates that approximately 40% of all American marriages will experience at least one incident of violence, 15 to 20% will experience violence periodically, and at least 5% will be plagued by chronic wife-beating.

— The F.B.I. estimates that approximately 1.8 million women are assaulted by their husbands each year.

— The National District Attorneys Association has

reported that 31 percent of all murders are between family members, and of these, one-half are between spouses. The Association estimates that 3.8 percent of all families in the country will have an aggravated assault occur between family members.

Accurate statistics on domestic violence in Maine are also unavailable, again largely because of underreporting. No systematic studies of the problem have been done and, therefore, no agency or organization in the State has an accurate idea of the magnitude of the problem. Nevertheless, when underreporting and other factors are taken into account, the general consensus of experts in Maine is that there are approximately 48,000 incidents of domestic violence in this state each year.

According to available data, most reported domestic violence involves a man beating his wife or the woman with whom he is living. Women from all social and economic levels of our society are victims of violent beatings by their husbands or male partners. One-fourth of the women beaten are pregnant at the time of the beating.

Battered women who have discussed their beatings with enforcement and medical authorities report the following as typical patterns of abuse:

1) the beatings of the women by the man do not stop, even though the man may apologize later and promise not to beat the woman again;

2) the beatings often become more severe and more frequent over a period of time;

3) the onset of a beating may occur with no provocation by the woman, such as while the woman is sitting quietly or sleeping;

4) the man who has beaten only his wife, and not his children, at some point eventually turns his violence against his children;

5) Beatings are not necessarily a

product of the man's abuse of alcohol, but alcohol abuse may increase the frequency or severity of the beatings or trigger their onset.

Battered women who have suffered violent beatings over extended periods of time give the following reasons for staying with their husbands or partners:

1) the woman was afraid of what the man would do to her and her children if she tried to leave him;

2) the woman thought the man would change and stop beating her;

3) the woman had no one to turn to and did not know where to go for help;

4) the woman had no money and had no safe place or shelter to which she could go;

5) the woman believed that she was at fault and that she had no worth as a person;

6) the woman believed she had to keep her husband and family together at all costs, despite the pain and danger;

Many women who left their husbands or partners to escape further beatings did so only when they believed that their lives and their children's lives were in danger. Many of the women who left homes where there was domestic violence went to live in temporary shelters for battered women and children until they could become self-sufficient. Some of these women have moved to other states to begin new lives under new names, to protect their safety and that of their children. Some battered women have eventually reconciled with their husbands or partners after the man or the couple accepted counseling and medical and psychiatric treatment.

Violence between a man and woman usually affects other family members and may

perpetuate itself in future generations. Where there is a beating of a woman, there may also be beating and sexual abuse of children. Children who have seen their parents beat each other or their children are likely to grow up to repeat the behavior themselves.

Another important aspect of the problem, from the standpoint of the law enforcement officer, is that domestic violence is a dangerous area for law enforcement intervention. Domestic violence may first come to the attention of a law enforcement agency when a call for assistance is received. Available statistics show that a large percentage of emergency assistance calls involve abuse between family or household members.

Officers report that domestic violence is one of the most difficult emergencies for police intervention. Often, either the man or woman or both will be hostile to the officer who arrives on the scene. Sometimes either or both will attack the officer. The results can be disastrous for all involved. 25% of all law enforcement officers killed in action were killed while answering a call for help involving domestic violence. 28% of all officers injured in action were injured while answering domestic violence calls.

The foregoing discussion and statistics suggest the nature, complexity, and potential dangers of the problem of domestic violence. This article will not attempt to deal with the root causes of and solutions to the problem. Rather, this article will attempt to prevent the continuation or escalation of existing abuse, and thereby alleviate some of the suffering, by providing information on existing laws, procedures, services and facilities dealing with the problem, with particular emphasis on the new domestic violence law mentioned earlier.

LAWS AND PROCEDURES

Before the enactment of the new domestic violence law, few laws outside the criminal law dealt with the problem of abuse between family or household members. The existing legal remedies were often not enforced or inadequately enforced because domestic violence was treated as a private family problem or as an alcohol-related problem. Furthermore, many of the criminal laws were flawed because arrests for Class D crimes such as criminal threatening could not be made on probable cause, but could only be made if the crime were committed in the officer's presence. The new emergency legislation remedies this problem with the criminal law and goes on to establish specific *civil* procedures to deal with incidents of domestic violence. This section of the article will briefly discuss the existing criminal statutes applicable to domestic violence cases and will discuss in detail the civil procedures enacted as part of the new domestic violence law, with particular emphasis on the responsibilities of law enforcement officers.

Criminal Laws

Many existing criminal statutes are applicable to incidents of domestic violence. Arrest for violation or attempted violation of these statutes is one way in which a law enforcement officer may resolve a domestic violence situation. The crimes defined in these statutes will not be reproduced or discussed here, for purposes of brevity, but will merely be listed together with their citations and class designations.

Title 17-A	Crime	Class
§201	Murder	(See 17-A MRSA §1251)
§202	Felony murder	A
§203	Manslaughter	A or C
§204	Aiding or soliciting suicide	D
§207	Assault	D
§208	Aggravated assault	B
§209	Criminal threatening	D

§210	Terrorizing	C or D
§211	Reckless conduct	D
§252	Rape	A
§253	Gross sexual misconduct	B or C
§301	Kidnapping	A or B
§302	Criminal restraint	D
§303	Criminal restraint by parent	E
§506-A	Harrassment	E
§556	Incest	D

Before the enactment of the new domestic violence law, a law enforcement officer had authority to arrest without a warrant a person who he had probable cause to believe had committed or was committing only the following crimes:

- 1) Murder;
- 2) Any Class A, Class B, or Class C crime; or
- 3) Assault, if the officer reasonably believed that the person committing the assault might cause injury to others unless immediately arrested.

An officer had authority to arrest without a warrant for any of the Class D or Class E crimes listed above, only if the crime was committed in his presence. Officers were therefore severely restricted in their options if they came upon a domestic violence situation *after* one of the class D or Class E crimes had been committed. In order to make an arrest, an officer had to go through the time-consuming process of obtaining an arrest warrant. Because scenes of actual or threatened domestic violence are often volatile situations requiring immediate action, an officer's taking the time to obtain an arrest warrant could be counter-productive to the effective resolution of the situation.

The new domestic violence law remedies this problem by expanding the law enforcement officer's power to arrest without a warrant to persons who he has probable cause to believe have committed or are committing the Class D crimes of Assault, Criminal threatening, Terrorizing, or Reckless conduct. *The officer*

must, however, reasonably believe that the person and victim are "family or household members." (17-A M.R.S.A. §15(1) (A) 5-A)

"Family or household members" is defined in the new domestic violence law to mean "spouses or former spouses, individuals presently or formerly living as spouses or other adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute 'living as spouses.'" (15 M.R.S.A. §301(1)) This definition should be self-explanatory except that the terms "consanguinity" and "affinity" may need further clarification. "Consanguinity" simply means blood relationship. Adult household members related by blood would include parents and adult children or adult brothers and sisters. "Affinity" means relationship by marriage. Adult household members related by marriage would include a spouse or former spouse and his or her mother-in-law or brother-in-law.

It should be reemphasized that the expanded warrantless arrest power granted by the new emergency legislation only applies if *both* elements discussed above are present. Those elements are (1) that the law enforcement officer has probable cause to believe that a person has committed or is committing the crime of Assault, Criminal threatening, Terrorizing, or Reckless conduct, and (2) that the law enforcement officer reasonably believes that the person to be arrested and his victim are "family or household members." Moreover, the expanded arrest power may be exercised in both public and private places. It is not limited to domestic violence situations in the home, although it may prove most useful in those situations.

The new domestic violence law also affects the arrest authority of law enforcement officers for the crime of Aggravated assault (17-A

M.R.S.A. §208) in a significant way. If the officer has probable cause to believe that a person has committed or is committing aggravated assault, and the alleged offender and the victim are family or household members the officer *must* arrest and take into custody the alleged offender. (19 MRSA §770(5)). The new law, in effect, takes away the officer's discretionary power to arrest in this instance, and replaces it with a mandatory duty to arrest.

Finally, the new domestic violence law requires law enforcement officers to treat incidents of domestic abuse with the same degree of seriousness as other criminal violations. 19 M.R.S.A. §770(4) specifically states that "[a] law enforcement officer at the scene of an alleged incident of abuse shall use the same standard of enforcing relevant Maine Criminal Code sections when the incident involves family or household members as when it involves strangers."

The New Civil Procedures

The major substance of the new civil procedures dealing with abuse between family or household members appears in the newly enacted 19 M.R.S.A., Chapter 14, entitled *Protection from Abuse*. The purposes of the new chapter are set out in 19 M.R.S.A. §761, which reads as follows.

§761. Purpose

The purposes of this chapter are:

1. **Protection.** To allow family and household members who are victims of domestic abuse to obtain effective, short-term protection against further abuse so that the lives of the nonabusing family or household members will be as secure and as uninterrupted as possible;

2. **Prevention.** To expend the ability of law enforcement officers to effectively respond to situations

of domestic abuse so as to prevent further incidents of abuse and to assist the victims of that abuse; and

3. **Data collection.** To provide for the collection of data concerning domestic abuse in an effort to develop a comprehensive analysis of the incidence and causes of that abuse.

Before discussing 19 M.R.S.A., Chapter 14 in detail, the definitions of terms used throughout the Chapter, as set out in 19 M.R.S.A. §762, will be reproduced:

§762. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. **Abuse.** "Abuse" means the occurrence of the following acts between family or household members:

A. Attempting to cause or causing bodily injury or offensive physical contact; or

B. Attempting to place or placing another in fear of imminent bodily injury.

2. **Adult.** "Adult" means any person 18 years of age or older or any person under 18 years of age who is emancipated from the legal control of his parents or guardian.

3. **Court.** "Court" means any district or superior court.

4. **Family or household members.** "Family or household members" means spouses or former spouses, individuals presently or formerly living as spouses or other adult household members related by consanguinity or affinity. Holding oneself out to be a spouse shall not be necessary to constitute "living as spouses."

5. **Law enforcement agency.** "Law enforcement agency" means the State Police, a sheriff's

department or a municipal police department.

Procedures to Obtain Protection from Abuse

Any adult who has been abused by a family or household member may seek relief by filing a complaint alleging the abuse in the District Court or Superior Court of the division or county in which either the plaintiff or the defendant resides. If the plaintiff has left his residence to avoid abuse, he may bring the complaint in the division or county of his previous residence or of his new residence. No fee will be charged for forms or for filing a complaint. The court will provide necessary forms and clerical assistance to either party for completing and filing a complaint or other necessary documents. This assistance will not include legal advice or assistance in drafting legal documents. A plaintiff may apply for permission to proceed in forma pauperis, which simply means without liability for court fees or costs. (19 M.R.S.A. §§763 and 764). All proceedings will be conducted in accordance with the Maine Rules of Civil Procedure and may be independent of or joined with a proceeding for divorce, dissolution of marriage, legal separation, or separate maintenance. The plaintiff's right to relief is not affected by his use of reasonable force in response to abuse by the defendant. Voluntary intoxication of the defendant is not a defense to a plaintiff's action for relief. (19 M.R.S.A. §768)

Within 21 days of the filing of the complaint, the court must hold a hearing at which the plaintiff must prove the allegation of abuse by a preponderance of the evidence. ((19 M.R.S.A. §765(1)) Preponderance of the evidence means the more convincing or credible evidence or the evidence with the greater weight, when

compared to the evidence in opposition.

Temporary and Emergency Orders

In order to protect the plaintiff during the period between the filing of the complaint and the hearing, the court may issue a temporary order upon showing by the plaintiff of an immediate and present danger of physical abuse. (19 M.R.S.A. §765(2)). This temporary order may provide for the care and custody of any minor children residing in the household and may prohibit the defendant from engaging in any of the following activities:

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

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

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

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

(19 M.R.S.A. §765(4))

If the plaintiff is unable to file a complaint because the court is closed, and no other provision can be made for the shelter of an abused family or household member, the plaintiff may obtain emergency relief by filing a complaint before an appropriate District Court Judge or Superior Court Judge. Upon the plaintiff's showing of immediate and present danger of physical abuse, the judge may issue a temporary order as described in the preceding paragraph. Such an emergency temporary order will be immediately certified to the clerk of the District Court or Superior Court in the Division or County in which a complaint might originally have been brought if the court had not been closed. The

emergency temporary order, once certified, has the same effect as a complaint in instituting proceedings against the defendant and remains in effect until the hearing. (19 M.R.S.A. §765(3)) If the court issues a temporary order or if it orders emergency or interim relief, it will order a law enforcement agency to personally serve the order on the defendant. The order should be served on the defendant as soon as possible under the circumstances. To further protect the plaintiff, the court may order the omission or deletion of the plaintiff's address from any papers served on the defendant. (19 M.R.S.A. §765 (4-A))

19 M.R.S.A. §765(5) sets up a procedure by which a person subject to a temporary order may obtain a dissolution or modification of the order.

A violation of a temporary, emergency, or interim protective order, when the defendant has prior actual notice of it, is a Class D crime. (19 M.R.S.A. §769(1)) Like an arrest for Assault, Criminal threatening, Terrorizing, or Reckless conduct, discussed earlier, an arrest for a violation of a temporary, emergency, or interim protective order may be made without warrant upon probable cause, whether or not the violation is committed in the presence of the police officer. Moreover, if a law enforcement officer has probable cause to believe that there has been a criminal violation of a temporary, emergency, or interim protective order, he *must* arrest and take into custody the alleged offender. (19 M.R.S.A. §770(5)) This requirement is similar to the mandatory duty to arrest for the crime of aggravated assault, when the alleged offender and victim are family or household members, which was discussed earlier.

Relief

After hearing, and upon finding that the defendant has committed

the abuses alleged, the court may either grant the plaintiff a final protective order or may approve a consent agreement between the plaintiff and defendant, in order to bring about a cessation of abuse. 19 M.R.S.A. §766(1) sets out the following powers that the court may exercise through a final protective order or consent agreement:

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

B. When the mutual residence or household of the parties is jointly owned or jointly leased:

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

(2) Restoring possession to one party;

C. 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 possession of the residence or household to the dependent party with the exclusion of the other party by ordering his removal;

(2) Restoring possession to the dependent party; or

(3) By consent agreement, allowing the supporting party 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 deemed appropriate by the court;

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

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

G. Ordering the payment of temporary support for the dependent party or any child in his custody, or both when there is a legal obligation to support that person;

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

I. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses shall be 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 deemed necessary or appropriate in the discretion of the court.

To further protect the plaintiff, the court may order the omission or deletion of the plaintiff's address from any papers available to the public.

The court is required to make a final protective order or approved consent agreement effective for a fixed period not to exceed one year. An order or agreement may be modified by the court as circumstances require, upon the motion of either party, and may be extended by the court upon the motion of the plaintiff. A final protective order or consent agreement must indicate, clearly and conspicuously, the consequences of a violation.

19 M.R.S.A. §767 requires the clerk of the court to issue, without fee, a copy of an order, agreement, amendment, or revocation to the plaintiff, to the defendant, and, as the court directs, to the law enforcement agencies most likely to enforce the order or agreement. Every law enforcement agency, therefore, will receive copies of all orders or agreements which they are likely to enforce, and should develop a system for filing them for easy reference.

Violation

A violation of a final protective order or a court approved consent agreement, when the defendant has prior actual notice of the order or agreement, is a Class D crime with one exception. If the *only* provision of the order or agreement which was violated concerned relief authorized under §766(1) paragraphs F through K (See above under *Relief*), the violation is *not criminal* but is treated as contempt and punished in accordance with the law relating to contempt. A law enforcement officer may *not* arrest for a violation of a provision of an order or agreement authorized under §766(1) paragraphs F through K. (Paragraphs F through K deal only with counseling and the payment of money.)

An arrest, however, for a violation of a provision of an order or agreement authorized by §766(1) paragraphs A through E (which is a Class D crime) may be made without warrant upon probable cause whether or not the violation is committed in the presence of the law enforcement officer. (19 M.R.S.A. §769(2)) Moreover, if a law enforcement officer has probable cause to believe that there has been a criminal violation of a final protective order or a court approved consent agreement, he *must* arrest and take into custody the alleged offender. (19 M.R.S.A. §(5)) This requirement

is similar to the mandatory duty to arrest for the crime of Aggravated assault, when the alleged offender and victim are family or household members, which was discussed earlier.

Conviction or Criminal Action Pending

15 M.R.S.A. §301(2) gives the court additional authority to issue a protective order under the following conditions:

- 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.**

The protective order 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, any child residing with the victim; or**
- C. Not to do specific acts which the court finds may harass, torment or threaten the victim.**

The protective order may be a condition of the offender's release. (15 M.R.S.A. §301(3))

15 M.R.S.A. §301(4) requires the clerk of the court to issue a copy of the protective order, amendment, or revocation to the offender, the victim, and, as the court directs, to the law enforcement agencies most likely to enforce the order. Violation of a protective order issued under 15 M.R.S.A. §301(2) is a Class D crime. An arrest for a criminal violation of such an order may be made without warrant upon probable cause, whether or not the violation is committed in the

presence of the law enforcement officer. (19 M.R.S.A. §769(2)) Moreover, if a law enforcement officer has probable cause to believe that there has been a criminal violation of a protective order, he *must* arrest and take into custody the alleged offender. (19 M.R.S.A. §770(5)) A law enforcement officer may verify, if necessary, the existence of any protective order by telephone or radio communication with a law enforcement agency with knowledge of the order.

Other Law Enforcement Duties

In the previous section, the effect of the new domestic violence law on the arrest powers and duties of law enforcement officers with respect to violations of criminal statutes, protective orders, and consent agreements was discussed. The new emergency legislation also sets out other responsibilities of law enforcement agencies and officers in dealing with abuse between family and household members. The major portion of the law dealing with law enforcement responsibilities appears in 19 M.R.S.A. §770. Various subsections of §770 will be referred to in the following discussion.

Reports

19 M.R.S.A. §770(1) requires each law enforcement agency to report all incidents of abuse by adults of family or household members as required by the State Bureau of Identification under 25 M.R.S.A. §1544. 25 M.R.S.A. §1544 was amended by the new domestic violence law to require the State Bureau of Identification to establish a category, supplementary to its other reported information, for abuse by adults of family or household members and to prescribe the information to be submitted in the same manner as for all other categories of the uniform crime reports. Each

law enforcement agency will receive instructions from the bureau on how to report incidents of abuse.

Establishment of Procedures

19 M.R.S.A. §770(2) requires law enforcement agencies to establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of abuse or violation of a protective order or consent decree can be informed of any recorded prior incident of abuse involving the abused party and can verify the effective dates and terms of any recorded protective order or consent decree. It is especially important that these procedures be efficient and promote accuracy, because a law enforcement officer's power or duty to arrest may depend on the existence or terms of a protective order or consent decree.

Officer Training

19 M.R.S.A. §770(3) requires law enforcement agencies to provide officers employed by them with an education and training program designed to inform the officers of the problems of family and household abuse, procedures to deal with these problems, the provisions of newly enacted 19 M.R.S.A. Chapter 14, and the services and facilities available to abused family and household members. Each law enforcement agency is to determine the amount and degree of officer education and training, beyond the distribution of information. It is hoped that this issue of the ALERT Bulletin will be a useful tool in providing this required education and training.

On-the-Scene Responsibilities

19 M.R.S.A. §770(6) requires that, whenever a law enforcement officer has reason to believe that a family or household member has been abused, he immediately use all reasonable means to prevent further abuse, including:

A. Remaining on the scene as long as he reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit;

B. Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital;

C. Giving that person immediate and adequate written notice of his rights, which shall include information summarizing the procedures and relief available to victims of the family or household abuse; or

D. Arresting the abusing party with or without a warrant pursuant to the guidelines discussed earlier in this article.

Because domestic abuse situations are sensitive and volatile, officers should use common sense and sound discretion to ensure that all persons, including him or herself, are protected from further injury and that the situation is made as stable as possible. The new domestic violence law is designed to give both law enforcement officers and victims of abuse a broader array of options to deal with incidents of abuse between family or household members. Poor judgment in exercising those options can only serve to aggravate an already delicate situation and lead to potentially disastrous consequences for all involved.

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Appendix B

Police Interview

Is the law an improvement or an unnecessary burden? In what ways?

In what ways, if any, has your job changed since last July?

Do victims seem to understand their rights/options when the new law is explained to them? Do the accused?

Does this department currently have a supply of written cards, summarizing the law? How are they supplied? Do you give each victim a card?

Is there a priority given to answering calls when officers are in demand? What is that?

What sort of training, if any, have you received in the area of domestic violence?

Does the department have any sort of program of victim advocate assistance?

If an assailant has violated a protection order, but the victim subsequently refuses to press charges, what is the typical course of action?

If a victim disregards the order of protection, invites her former assailant to return, and then calls the police to remove him, what is the typical course of action?

What is the policy and/or practice to a victim who is a repeat caller?

What do other officers think of the law?

What is (are) the greatest need(s) in the area of domestic violence?

Do you have any further comments, problems or recommendations concerning the domestic violence law?

Shelter Worker Interview

Is the new domestic violence law an improvement?

Have you seen any changes since last July?

Do police respond to calls for help? Do they exercise their power for warrantless arrest? Arresting for violation of orders? What is their attitude?

Are the police telling women of their options?

Are women discouraged from filing/pressing criminal charges? Civil papers? By who or what?

What are some of the reasons women drop charges or void protective orders?

What support systems/social services are available to victims? To abusers?

Is there adequate training and education for court clerks? Police? Prosecutors? Judges?

What do you see as the greatest need(s) in the area of domestic violence?

Appendix C

CHAPTER 14
PROTECTION FROM ABUSE [See, also, Chapter
14, post]

Section

- 761. Purpose.
- 762. Definitions.
- 763. Filing of complaint.
- 763-A. Application of other acts.
- 764. Commencement of proceeding.
- 765. Hearings.
- 766. Relief.
- 766-A. Confidentiality of plaintiff's address.
- 767. Notification.
- 768. Procedure.
- 769. Violation.
- 770. Law enforcement agency responsibilities.
- 771. Repeal.

Chapter 14, Protection from Abuse, was enacted by Laws 1979, c. 578, § 5.

Laws 1979, c. 668, § 6 enacted a Chapter 14, Alimony and Support Enforcement, consisting of §§ 771 to 776 of this title. See Chapter 14, post.

Repeal

Section 7 of Laws 1979, c. 578, as amended by Laws 1979, c. 677, § 18, provides:

"Sunset provision. This Act is repealed on November 1, 1983."

Section 771 of this title, as enacted by Laws 1979, c. 677, § 17, provides that this chapter is repealed on November 1, 1983.

§ 761. Purpose

The purposes of this chapter are:

1. **Protection.** To allow family and household members who are victims of domestic abuse to obtain effective, short-term protection against further abuse so that the lives of the nonabusing family or household members will be as secure and as uninterrupted as possible;

2. **Prevention.** To expand the ability of law enforcement officers to effectively respond to situations of domestic abuse so as to prevent further incidents of abuse and to assist the victims of that abuse; and

3. **Data collection.** To provide for the collection of data concerning domestic abuse in an effort to develop a comprehensive analysis of the incidence and causes of that abuse.

1979, c. 578, § 5.

Historical Note

Section 7 of Laws 1979, c. 578, as amended by Laws 1979, c. 677, § 18, provides:

"Sunset provision. This Act is repealed on November 1, 1982."

Laws 1979, c. 578 was presented to the Governor by the Senate on June 3, 1979 and, the Governor's signature

having no force and effect, became law because it was not returned within three days after the meeting of the Second Regular Session of the 199th Legislature. (Constitution, Article IV, Part Third, Sec. 2) Received in the Office of the Secretary of State January 3, 1980.

Cross References

Abuse of children, protective orders, see title 15, § 301.
Justifiable force, use by parents, see title 17-A, § 106.
Sexual abuse, see title 17-A, § 254.

Library References

Breach of the Peace ⇐ 16.

C.J.S. Breach of the Peace § 17.

§ 762. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms shall have the following meanings.

1. **Abuse.** "Abuse" means the occurrence of the following acts between family or household members:

A. Attempting to cause or causing bodily injury or offensive physical contact; or

B. Attempting to place or placing another in fear of imminent bodily injury.

2. **Adult.** "Adult" means any person 18 years of age or older or any person under 18 years of age who is emancipated from the legal control of his parents or guardian.

3. **Court.** "Court" means any district or superior court.

4. **Family or household members.** "Family or household members" means spouses or former spouses, individuals presently or formerly living as spouses or other adult household members related by consanguinity¹ or affinity. Holding oneself out to be a spouse shall not be necessary to constitute "living as spouses."

5. **Law enforcement agency.** "Law enforcement agency" means the State Police, a sheriff's department or a municipal police department.

1979, c. 578, § 5; 1979, c. 677, §§ 4, 5.

¹ So in enrolled bill; probably should read "consanguinity".

Historical Note

Laws 1979, c. 677 deleted "recklessly" following "to cause or" in par. A of subsec. 1; deleted "knowingly" following "to place or" in par. B of subsec. 1; and repealed and replaced subsec. 4, which prior thereto read:
"Family or household members. 'Family or household members' means spouses, individuals who were

formerly spouses, individuals living as spouses, individuals who were formerly living as spouses or other adult household members related by consanguinity or affinity. Holding oneself out to be the husband or wife of the person with whom one is or was living is not necessary to constitute 'living as spouses'."

§ 763. Filing of complaint

Proceedings under this chapter shall be filed, heard and determined in the District Court or Superior Court of the division or county in which either the plaintiff or the defendant resides. If the plaintiff has left his residence to avoid abuse, he may bring an action in the division or county of his previous residence or of his new residence.

1979, c. 578, § 5; 1979, c. 677, § 6.

Historical Note

Laws 1979, c. 677 repealed and replaced this section which formerly read:

"§ 763. Jurisdiction

1. **Residence.** Proceedings under this chapter shall be filed, heard and determined in the District Court or Superior Court of the district or county in which either the plaintiff or the defendant resides. If the

plaintiff has left his residence to avoid abuse, he may bring an action in the county of his previous residence or of his new residence.

2. **Self defense.** The right to relief under this chapter shall not be affected by the plaintiff's use of force against the defendant as permitted under Title 17-A, section 108."

§ 763-A. Application of other acts

The provisions and limitations of the Uniform Child Custody Jurisdiction Act shall not apply to a proceeding under this chapter unless it is joined with another proceeding under section 763, subsection 2.

1979, c. 677, § 7.

Cross References

Uniform Child Custody Jurisdiction Act, see § 801 et seq. of this title.

§ 764. Commencement of proceeding

1. **Filing.** Any adult who has been abused by a family or household member may seek relief by filing a complaint alleging that abuse.

2. **Assistance.** The court shall provide separate forms with a summons and clerical assistance to assist either party in completing and filing of a complaint or other necessary documents. This assistance shall not include legal advice or assistance in drafting legal documents.

3. **Fees.** No fee shall be charged for forms or filing a complaint. A plaintiff may apply for leave to proceed in forma pauperis.

1979, c. 578, § 5; 1979, c. 677, § 8.

Historical Note

Laws 1979, c. 677 substituted "complaint" for "a sworn petition in an appropriate court" in subsec. 1; inserted "separate" and "with a summons" and substituted "complaint" for "petition" in the first sentence of subsec. 2; and deleted "filing" following "No" and substituted "forms of filing a complaint" for "a petition" in the first sentence of subsec. 3.

Cross References

Child and Family Services and Child Protection Act, see title 22, § 4001 et seq.

§ 765. Hearings

1. **Full hearing.** Within 21 days of the filing of a complaint, a hearing shall be held at which the plaintiff shall prove the allegation of abuse by a preponderance of the evidence.

2. **Temporary orders.** The court may enter any temporary orders authorized under subsection 4 as it deems necessary

to protect the plaintiff from abuse, on good cause shown in an ex parte proceeding. Immediate and present danger of physical abuse to the plaintiff shall constitute good cause. Any order shall remain in effect pending a hearing pursuant to subsection 1.

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

A. When the court is closed and no other provision can be made for the shelter of an abused family or household member, a complaint may be filed before an appropriate District Court Judge or Superior Court Judge. Upon a showing of good cause, as defined in subsection 2, the court may enter any temporary orders authorized under subsection 4 as it deems necessary to protect the plaintiff from abuse.

B. An order shall be immediately certified to the clerk of the District Court or Superior Court having venue. This certification to the court shall have the effect of commencing proceedings and invoking the other provisions of this chapter.

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

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 or otherwise disturbing the peace of the plaintiff;

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

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

4-A. Service of order. If the court issues a temporary order or orders emergency or interim relief, it shall order a law enforcement agency to personally serve the order on the defend-

ant. To protect the plaintiff, the court may order the omission or deletion of his address from any papers served on the defendant.

5. Dissolution or modification. Notwithstanding any statutory provision to the contrary, on 2-days' notice to the plaintiff or on such shorter notice as the court may order, a person who is subject to an order may appear and move the dissolution or modification of the order and in that event the court shall proceed to hear and determine the motion as expeditiously as the ends of justice require. At that hearing, the plaintiff shall have the burden of justifying any finding in the ex parte order which the defendant has challenged by affidavit. Nothing in this section shall be construed to abolish or limit any means, otherwise available by law, for obtaining dissolution, modification or discharge of an order.

6. Extension. If a hearing under subsection 1 is continued, the court may make or extend such temporary orders as it deems necessary.

1979, c. 578, § 5; 1979, c. 677, §§ 9 to 11.

Historical Note

Laws 1979, c. 677 substituted "complaint" for "petition" in subsec. 1; substituted "complaint" for "petition" in the first sentence of par. A of subsec. 3; substituted "clerk of the" for "appropriate" and inserted "having venue" in the first sentence of par. B of subsec. 3; and added subsec. 4-A.

§ 766. Relief

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

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

B. When the mutual residence or household of the parties is jointly owned or jointly leased:

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

(2) Restoring possession to one party;

C. 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 possession of the residence or household to the dependent party with the exclusion of the other party by ordering his removal;

(2) Restoring possession to the dependent party; or

(3) By consent agreement, allowing the supporting party 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 deemed appropriate by the court;

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

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

G. Ordering the payment of temporary support for the dependent party or any child in his custody, or both, when there is a legal obligation to support that person;

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

L. Ordering payment of monetary compensation to the abused person for losses suffered as a direct result of the abuse. Compensatory losses shall be 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 deemed necessary or appropriate in the discretion of the court.

2. Duration. Any protective order or approved consent agreement shall be for a fixed period not to exceed one year. At the expiration of that time, the court may extend an order, upon motion of the plaintiff, for such additional time as it deems necessary to protect the plaintiff from abuse. Upon motion by either party, for sufficient cause, the court may modify the order or agreement from time to time as circumstances require.

3. Consequences of violation. Any protective order or approved consent agreement shall indicate, in a clear and conspicuous manner, the potential consequences of violation of the order or agreement, as provided in section 769.

4. Title to property. No order or agreement shall affect title to any real property.

5. Bond prohibited. The court shall not require the execution of a bond by the plaintiff prior to issuance of any order of protection.

1979, c. 578, § 5; 1979, c. 677, § 12.

Historical Note

Laws 1979, c. 677 inserted "and committed the abuses alleged" in upon finding that the defendant has subsec. 1.

§ 766-A. Confidentiality of plaintiff's address

To protect the plaintiff, the court may order the omission or deletion of his address from any papers available to the public.

1979, c. 677, § 13.

§ 767. Notification

The clerk shall issue, without fee, a copy of an order, agreement, amendment or revocation to the plaintiff, the defendant and, as the court directs, to the law enforcement agencies most likely to enforce it.

1979, c. 578, § 5; 1979, c. 677, § 14.

Historical Note

Laws 1979, c. 677 repealed and replaced this section, which formerly read:

"A copy of any order or agreement shall be issued forthwith by the clerk of the appropriate court to the plaintiff, the defendant and the law en-

forcement agency with appropriate jurisdiction to enforce the order or argument. No fee shall be charged for issuance of the required copies. Any subsequent amendment or revocation of the order or agreement shall be issued in the same manner."

§ 768. Procedure

1. **Civil rules apply.** Unless otherwise indicated in this chapter, all proceedings shall be in accordance with the Maine Rules of Civil Procedure. Appeals may be taken as provided by the Maine Rules of Civil Procedure. Appeals may be only for error of law or abuse of discretion.

2. **Proceedings independent.** All proceedings may be independent of, or joined with, a proceeding for divorce, dissolution of marriage, legal separation or separate maintenance. A proceeding under this chapter shall be in addition to any other available civil or criminal remedies.

3. **Self defense.** The right to relief under this chapter shall not be affected by the plaintiff's use of reasonable force in response to abuse by the defendant.

4. **Intoxication.** Voluntary intoxication shall not be a defense to an action under this chapter.

1979, c. 578, § 5; 1979, c. 677, § 15.

Historical Note

Laws 1979, c. 677 added the second and third sentences to subsec. 1; amended subsec. 2 by dividing the subsection in two sentences, by substituting "may" for "shall" and "or

joined with, a" for "any" in the first sentence, and by substituting "A proceeding under this chapter" for "and" at the beginning of the second sentence; and added subsecs. 3 and 4.

§ 769. Violation

1. **Crime committed.** Violation of a temporary, emergency, interim or final protective order or a court approved consent agreement, when the defendant has prior actual notice of the order or agreement, is a Class D crime, except when the only provision that is violated concerns relief authorized under section 766, subsection 1, paragraphs F to K. Violation of these para-

graphs shall be treated as contempt and punished in accordance with law.

2. Warrantless arrest. Notwithstanding any statutory provision to the contrary, an arrest for criminal violation of an order or consent agreement 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.

1979, c. 578, § 5; 1979, c. 677, § 16.

Historical Note

Laws 1979, c. 677 in first sentence inserted "temporary, emergency, interim or final" and substituted "is" for "shall be" following "order or agreement" and "K" for "J" following "paragraphs F to" in the first sentence of subsec. 1; and inserted "criminal" following "an arrest for" and "or consent agreement" following "of an order", and substituted "law enforcement" for "police" in the first sentence of subsec. 2; and substituted "law enforcement" for "police" and "a" for "the appropriate" following "radio communication with", and inserted "with knowledge of the order" in the second sentence of subsec. 2.

Cross References

Child and Family Services and Child Protection Act, penalty for violations, see title 22, § 4009.

§ 770. Law enforcement agency responsibilities

1. Reports. Each law enforcement agency shall report all incidents of abuse by adults of family or household members as required by the State Bureau of Identification under Title 25, section 1544.

2. Agency procedures. Law enforcement agencies shall establish procedures to ensure that dispatchers and officers at the scene of an alleged incident of abuse or violation of an order of protection can be informed of any recorded prior incident of abuse involving the abused party and can verify the effective dates and terms of any recorded order of protection.

3. Officer training. Law enforcement agencies shall provide officers employed by them with an education and training program designed to inform the officers of the problems of family and household abuse, procedures to deal with these problems, the provisions of this chapter and the services and facilities available to abused family and household members. The

amount and degree of officer training, beyond the distribution of information, shall be determined by each local law enforcement agency.

4. **Maine Criminal Code enforcement.** A law enforcement officer at the scene of an alleged incident of abuse shall use the same standard of enforcing relevant Maine Criminal Code sections when the incident involves family or household members as when it involves strangers.

5. **Arrest in certain situations.** When a law enforcement officer has probable cause to believe that there has been a criminal violation of a protective order or a court approved consent agreement or that a violation of Title 17-A, section 208, has occurred between members of the same family or household, he shall arrest and take into custody the alleged offender.

6. **Officer responsibilities.** Whenever a law enforcement officer has reason to believe that a family or household member has been abused, the officer shall immediately use all reasonable means to prevent further abuse, including:

- A. Remaining on the scene as long as he reasonably believes there is a danger to the physical safety of that person without the presence of a law enforcement officer, including, but not limited to, staying in the dwelling unit;
- B. Assisting that person in obtaining medical treatment necessitated by an assault, including driving the victim to the emergency room of the nearest hospital;
- C. Giving that person immediate and adequate written notice of his rights, which shall include information summarizing the procedures and relief available to victims of the family or household abuse; or
- D. Arresting the abusing party with or without a warrant pursuant to section 769 and Title 17-A, section 15.

1979, c. 578, § 5.

§ 771. **Repeal** [Sec. also, § 771, post]

This chapter, as amended, is repealed on November 1, 1983.
1979, c. 677, § 17.

Historical Note

Laws 1979, c. 677 enacted this section without reference to § 771 of this title as enacted by Laws 1979, c. 668, § 6.

FOOTNOTES

¹From the State of Maine Administrative Office of the Courts Annual Report 1980.

²The size of each police department is approximately as follows: Portland-125; Brunswick-30; Sanford-30; S. Paris/Norway-10.

³When a case is filed there is no penalty but should the accused come before the court again, the current case would be considered along with other charges.

⁴January through June of 1979 and 1981 were selected with the aims of both obtaining the most current data and obtaining data exclusive of any initial implementation difficulties.

⁵The statistics from S. Paris are illustrative of the probable increase in real numbers of domestic abuse reports if all relationships could be determined accurately. One-third of the criminal cases in this jurisdiction recorded as domestic would not have been included by the researcher for lack of identifying data in the complaint. Cooperative court clerks and the nature of a small town allowed positive identification of an includable relationship between perpetrator and victim.

⁶The figures for general crime increase were taken from the lists of docket numbers pulled for 1979 and 1981, which included crimes of assault (simple and aggravated), criminal trespass, criminal mischief, criminal threatening, criminal restraint, terrorizing, disorderly conduct, harassment, homicide and, for 1981 cases, violation of a protective order. Specifically, Portland increased from 67 to 90; Springvale increased from 107 to 190; and S. Paris decreased from 64 to 50. All figures for Portland have been doubled to compensate for the procedure of checking only every second page of the docket book.

FOOTNOTES (cont'd)

⁷In one of these 1981 cases a determination of innocence was made by a fact finder. This was the only case found where the accused was found not guilty.

⁸Crime in Maine 1980, State of Maine Department of Public Safety, p. 25.

⁹This article is excerpted from the January/February 1980 ALERT Bulletin, published by the Maine Department of the Attorney General, Law Enforcement Education Section, Criminal Division.