

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FOURTEEN

—
S.P. 649 - L.D. 1656

An Act To Increase Safety for Victims of Domestic Violence and Victims of Sexual Assault

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

Whereas, a victim of domestic violence or sexual assault is further traumatized when the alleged offender engages in unwanted contact with the victim; and

Whereas, current law does not prohibit a person accused of domestic violence or sexual assault from contacting the victim prior to the setting of bail; and

Whereas, the protection of a victim of domestic violence or sexual assault from unwanted contact by the alleged offender is paramount to a successful prosecution of the criminal conduct and the ability of the victim to repair the victim's life; and

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

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

Sec. 1. 5 MRSA §90-B, sub-§§4 to 6, as enacted by PL 2001, c. 539, §1, are amended to read:

4. Use of designated address. Upon demonstration of a program participant's certification in the program, state and local agencies and the courts shall accept and use only the designated address as a program participant's address ~~when creating a new public record~~ unless the secretary has determined that:

A. The agency has a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that it is unable to fulfill its statutory duties and obligations without the residential address; and

B. The program participant's address or mailing address will be used only for those statutory and administrative purposes.

5. Disclosure to law enforcement and state agencies. If the secretary determines appropriate, the secretary may make a program participant's address or mailing address available for ~~inspection or copying~~, use under the following circumstances:

A. If requested of the secretary by a law enforcement agency in the manner provided for by rule; or

B. Upon request to the secretary by a commissioner of a state agency or the commissioner's designee in the manner provided for by rule and upon a showing of a bona fide statutory or administrative requirement for the use of the program participant's address or mailing address, such that the commissioner or the commissioner's designee is unable to fulfill statutory duties and obligations without the address or mailing address.

6. Disclosure pursuant to court order or canceled certification. If the secretary determines appropriate, the secretary shall ~~make~~ allow a program participant's address and mailing address to be made available for ~~inspection or copying~~ use under the following circumstances:

A. To a person identified in a court order, upon the secretary's receipt of that court order that specifically orders the disclosure of a particular program participant's address and mailing address and the reasons stated for the disclosure; or

B. If the certification has been canceled because the applicant or program participant violated subsection 2, paragraph E, subparagraph (1).

Sec. 2. 15 MRSA §1094-B is enacted to read:

§1094-B. Improper contact with a family or household member prior to the setting of preconviction bail

1. Improper contact. A person is guilty of improper contact with a family or household member prior to the setting of preconviction bail if:

A. The person is being detained as a result of the person's arrest for an offense specified in section 1023, subsection 4, paragraph B-1;

B. Preconviction bail has not been set by a justice or judge;

C. The person is notified, in writing or otherwise, by the county jail staff not to make direct or indirect contact with the specifically identified alleged victim of the offense for which the person is being detained;

D. The alleged victim is a family or household member of the person; and

E. After the notification specified in paragraph C, the person intentionally or knowingly makes direct or indirect contact with the specifically identified alleged victim.

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

2. Penalty. Violation of this section is a Class D crime.

Sec. 3. 16 MRSA §53-B, sub-§1, ¶A, as enacted by PL 1995, c. 128, §1, is amended to read:

A. "Advocate" means an employee of or volunteer for a nongovernmental or Maine tribal program for victims of domestic or family violence who:

- (1) Has undergone at least 30 hours of training; and
- (2) As a primary function with the program gives advice to, counsels or assists victims, supervises employees or volunteers who perform that function or administers the program.

Sec. 4. 16 MRSA §53-B, sub-§1, ¶A-2 is enacted to read:

A-2. "Confidential criminal history record information" has the same meaning as in section 703, subsection 2.

Sec. 5. 16 MRSA §53-B, sub-§1, ¶A-3 is enacted to read:

A-3. "Criminal justice agency" has the same meaning as in section 703, subsection 4.

Sec. 6. 16 MRSA §53-B, sub-§1-A is enacted to read:

1-A. Confidential criminal history record information. A Maine criminal justice agency, whether directly or through any intermediary, may disseminate confidential criminal history record information to an advocate for the purpose of planning for the safety of a victim of domestic violence or a victim of sexual assault. An advocate who receives confidential criminal history record information pursuant to this subsection shall use it solely for the purpose authorized by this subsection and may not further disseminate the information.

Sec. 7. 19-A MRSA §4002, sub-§4, as amended by PL 2011, c. 640, Pt. C, §1, is further amended to read:

4. Family or household members. "Family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of Title 15, section 1023, subsection 4, paragraph B-1 and Title 15, section 1094-B, this chapter and Title 17-A, sections 15, 207-A, 209-A, 210-B, 210-C, 211-A, 1201, 1202 and 1253 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

Sec. 8. Uniform policy. No later than June 1, 2014, the State Board of Corrections shall establish a minimum, uniform policy for notifying defendants detained

at a county jail or other correctional facility after being arrested for an offense under the Maine Revised Statutes, Title 15, section 1023, subsection 4, paragraph B-1 and prior to the setting of preconviction bail by a justice or judge that it is a crime to make direct or indirect contact with a victim who is a member of the defendant's family or household.

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