

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE

—
H.P. 1263 - L.D. 1711

**An Act To Adopt the Use of Standardized Risk Assessment in the
Management of Domestic Violence Crimes**

Mandate preamble. This measure requires one or more local units of government to expand or modify activities so as to necessitate additional expenditures from local revenues but does not provide funding for at least 90% of those expenditures. Pursuant to the Constitution of Maine, Article IX, Section 21, 2/3 of all of the members elected to each House have determined it necessary to enact this measure.

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

Sec. 1. 15 MRSA §1023, sub-§4, ¶C, as amended by PL 2011, c. 341, §2, is further amended to read:

C. In a case involving domestic violence, set preconviction bail for a defendant before making a good faith effort to obtain from the arresting officer, the responsible prosecutorial office, a jail employee or other law enforcement officer:

- (1) A brief history of the alleged abuser;
- (2) The relationship of the parties;
- (3) The name, address, phone number and date of birth of the victim; ~~and~~
- (4) Existing conditions of protection from abuse orders, conditions of bail and conditions of probation; and
- (5) Beginning no later than January 1, 2015, the results of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety conducted on the alleged abuser when the results are available;

Sec. 2. 15 MRSA §1026, sub-§4, ¶C, as amended by PL 2007, c. 374, §9, is further amended to read:

C. The history and characteristics of the defendant, including, but not limited to:

- (1) The defendant's character and physical and mental condition;
- (2) The defendant's family ties in the State;
- (3) The defendant's employment history in the State;
- (4) The defendant's financial resources;
- (5) The defendant's length of residence in the community and the defendant's community ties;
- (6) The defendant's past conduct, including any history relating to drug or alcohol abuse;
- (7) The defendant's criminal history, if any;
- (8) The defendant's record concerning appearances at court proceedings;
- (9) Whether, at the time of the current offense or arrest, the defendant was on probation, parole or other release pending trial, sentencing, appeal or completion of a sentence for an offense in this jurisdiction or another;
- (9-A) Any evidence that the defendant poses a danger to the safety of others in the community, including the results of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety;
- (10) Any evidence that the defendant has obstructed or attempted to obstruct justice by threatening, injuring or intimidating a victim or a prospective witness, juror, attorney for the State, judge, justice or other officer of the court; and
- (11) Whether the defendant has previously violated conditions of release, probation or other court orders, including, but not limited to, violating protection from abuse orders pursuant to Title 19, section 769 or Title 19-A, section 4011.

Sec. 3. 19-A MRSA §4012, sub-§6, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

6. Officer responsibilities. When 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 the officer 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 that person's rights, which 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 4011 and Title 17-A, section 15.

Beginning no later than January 1, 2015, in addition to the actions specified in this subsection, the law enforcement officer shall make a good faith effort to administer a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety. The law enforcement officer administering this assessment shall provide the results of the assessment to the bail commissioner, if appropriate, and the district attorney for the county in which the abuse took place.

Sec. 4. 25 MRSA §2803-B, sub-§1, ¶D, as amended by PL 2011, c. 265, §2, is further amended to read:

D. Domestic violence, which must include, at a minimum, the following:

- (1) A process to ensure that a victim receives notification of the defendant's release from jail;
- (2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made;
- (3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 ~~hours~~ hours' notice to each party prior to the retrieval; ~~and~~
- (4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible; and
- (5) A process for the administration of a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety and the conveyance of the results of that assessment to the bail commissioner, if appropriate, and the district attorney for the county in which the domestic violence occurred.

Sec. 5. 25 MRSA §2803-B, sub-§2, as amended by PL 2011, c. 265, §3, is further amended to read:

2. Minimum policy standards. The board shall establish minimum standards for each law enforcement policy no later than June 1, 1995, except that policies for expanded requirements for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (4) must be established no later than January 1, 2012 and the policy for the use of, and the submission of the results of, the validated, evidence-based domestic violence risk assessment under subsection 1, paragraph D, subparagraph (5) must be established no later than January 1, 2013; policies for death investigations under subsection 1, paragraph I must be established no later than January 1, 2004; policies for public notification regarding persons in the community required to register under Title 34-A, chapter 15

under subsection 1, paragraph J must be established no later than January 1, 2006; policies for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be established no later than January 1, 2005; policies for the expanded use of physical force, including the use of electronic weapons and less-than-lethal munitions under subsection 1, paragraph A, must be established no later than January 1, 2010; and policies for mental illness and the process for involuntary commitment under subsection 1, paragraph L must be established no later than January 1, 2010.

Sec. 6. 25 MRSA §2803-B, sub-§3, as amended by PL 2011, c. 265, §4, is further amended to read:

3. Agency compliance. The chief administrative officer of each law enforcement agency shall certify to the board no later than January 1, 1996 that the agency has adopted written policies consistent with the minimum standards established by the board pursuant to subsection 2, except that certification to the board for expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) to (4) must be made to the board no later than June 1, 2012 and for the policy for the use of, and the submission of the results of, the validated, evidence-based domestic violence risk assessment under subsection 1, paragraph D, subparagraph (5) must be made to the board no later than July 1, 2013; certification to the board for adoption of a death investigation policy under subsection 1, paragraph I must be made to the board no later than June 1, 2004; certification to the board for adoption of a public notification policy under subsection 1, paragraph J must be made to the board no later than June 1, 2006; certification to the board for adoption of a policy for the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than June 1, 2005; certification to the board for adoption of an expanded use of physical force policy under subsection 1, paragraph A must be made to the board no later than June 1, 2010; and certification to the board for adoption of a policy regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than June 1, 2010. The certification must be accompanied by copies of the agency policies. The chief administrative officer of each agency shall certify to the board no later than June 1, 1996 that the agency has provided orientation and training for its members with respect to the policies, except that certification for orientation and training with respect to expanded policies for domestic violence under subsection 1, paragraph D, subparagraphs (1) and (3) must be made to the board no later than January 1, 2004; certification for orientation and training with respect to the administration of a validated, evidence-based domestic violence risk assessment under subsection 1, paragraph D, subparagraph (5) must be made to the board no later than January 1, 2014; certification for orientation and training with respect to policies regarding death investigations under subsection 1, paragraph I must be made to the board no later than January 1, 2005; certification for orientation and training with respect to policies regarding public notification under subsection 1, paragraph J must be made to the board no later than January 1, 2007; certification for orientation and training with respect to policies regarding the recording and preservation of interviews of suspects in serious crimes under subsection 1, paragraph K must be made to the board no later than January 1, 2006; certification for orientation and training with respect to policies regarding expanded use of physical force under subsection 1, paragraph A must be made to the

board no later than January 1, 2011; and certification for orientation and training with respect to policies regarding mental illness and the process for involuntary commitment under subsection 1, paragraph L must be made to the board no later than January 1, 2011.

Sec. 7. 34-A MRSA §5404, sub-§3, ¶E, as amended by PL 2005, c. 389, §6, is further amended to read:

E. Supervise the transition from institutional confinement for persons residing in a prerelease center if the commissioner directs; ~~and~~

Sec. 8. 34-A MRSA §5404, sub-§3-A is enacted to read:

3-A. Risk assessment; immunity from liability. Make a good faith effort to supplement any assessment tool for all domestic violence offenders with a validated, evidence-based domestic violence risk assessment recommended by the Maine Commission on Domestic and Sexual Abuse, established in Title 5, section 12004-I, subsection 74-C, and approved by the Department of Public Safety. A probation and parole or intensive supervision program officer shall implement protocols to override risk assessment scores based on the presence of domestic violence risk factors that indicate a higher risk.

Notwithstanding any other law to the contrary, the administration of the domestic violence risk assessment pursuant to this subsection or the failure to administer the assessment does not subject any state, municipal or county official or employee to liability in a civil action; and

In House of Representatives, 2012

Read twice and passed to be enacted.

..... Speaker

In Senate, 2012

Read twice and passed to be enacted.

..... President

Approved 2012

..... Governor