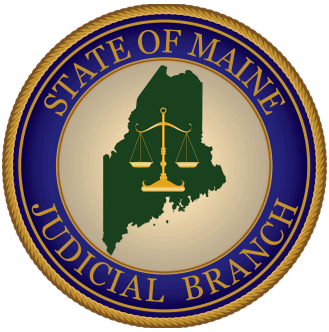

A GUIDE TO

Protection from Abuse & Harassment Cases

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COURT FORMS

Electronic copies of the forms below can be found on the Judicial Branch's website www.courts.maine.gov/fees_forms. Paper forms may be obtained at any District Court Clerk's Office at no charge.

To start a Protection from Abuse or Protection from Harassment case, complete either:

☐ *PA-001 Complaint for Protection from Abuse* (plaintiff) ***OR***

☐ *PA-006 Complaint for Protection from Harassment* (plaintiff).

Forms used in *both* Protection from Abuse and Protection from Harassment cases:

☐ *PA-017 Important Notice to Plaintiff* (plaintiff) (crime to make a false statement) (required).

☐ *PA-005 Protection Order Service Information* (plaintiff) (helps law enforcement locate the defendant to give notice of the case)(required).

☐ *PA-015 Affidavit for Confidential Address/Telephone Number* (plaintiff) (keeps contact information private for safety reasons)(optional).

ADDITIONAL FORMS

☐ *FM-050 Child Support Affidavit* (in a Protection from Abuse case, if the parties have minor children together and no child support order is in place).

☐ *PA-012 Plaintiff's Pre-Judgment Motion to Dismiss Complaint* (plaintiff).

☐ *PA-013 Motion to Extend Order for Protection* (plaintiff).

☐ *PA-022 Plaintiff's Post-Judgment Motion to Modify/Motion to Terminate Protection Order* (plaintiff).

☐ *PA-010 Defendant's Motion to Dissolve Temporary Order for Protection or to Modify/Amend* (with incorporated Affidavit) (defendant).

☐ *CR-CV-199 Notice of Change of Address* (plaintiff and/or defendant, as needed).

QUESTIONS ABOUT PROTECTION CASES: READ THE ENTIRE GUIDE

What kind of case should I file?

If you and the defendant currently have or had a dating or intimate relationship, among other types of relationships, you may file a Protection from Abuse case.

To file a Protection from Harassment case, no prior relationship is required.

Are there fees or costs to file a case?

Protection from Abuse-no fees to file.

Protection from Harassment- there may or may not be a fee to file. See Part B.6 for more information. The clerk's office will tell you what the filing fee is. You may ask the court to waive the filing fee if you cannot afford to pay it.

What forms or information must I file?

See the list of required and optional forms on the inside front cover of this guide.

Can I get a protection order right away (without notifying the defendant in advance)?

Perhaps, if a judge is available to review your *Complaint* and if the judge decides the evidence you have submitted supports a temporary protection order. The clerk will let you know when a judge will be available to review your request for a temporary order.

If a judge decides that a temporary order should not be issued, you may still decide to go forward with a hearing or to withdraw the case (with the option of re-filing later). The clerk's office will notify you and the defendant of the hearing date.

When do I and the defendant come back to court for a final hearing?

Protection from Abuse: hearing is scheduled within 21 days.

Protection from Harassment: hearing is scheduled as soon as practicable, but may not be scheduled within 21 days.

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Important Disclaimer

The specific requirements concerning your case are contained in the statutes, rules, and administrative orders. This is only a guide.

INTRODUCTION

This guide explains how to **file** for a temporary or final court **order** for protection from **abuse** or protection from **harassment**. Maine law allows victims of domestic or dating abuse, **sexual assault**, **stalking**, or harassment (**plaintiffs**) to obtain both short-term and long-term protection.

Abuse may include sending out **private, sexually explicit images** with the intent to harass, torment, or threaten, or engaging in **sex trafficking**, as well as other kinds of abuse. See Part A.1.

Individuals accused of abuse, sexual assault, stalking, or harassment (**defendants**) may contest a claim. This guide contains information for both plaintiffs and defendants (**parties**).

HOW ARE THE LAWS DIFFERENT?

The protection from abuse and protection from harassment laws differ from one another in several ways. Although both are civil laws and have the same general court process, each law has its own requirements. Part A of this guide explains protection from abuse; Part B deals with protection from harassment. Sometimes the laws are referred to collectively as the "protection laws."

The protection laws can be found in the Maine Revised Statutes as follows:

> Title 19-A, Sections 4001-4014 (protection from abuse);
>
> Title 5, Sections 4651-4661 (protection from harassment); and
>
> Title 17 and 17-A (sections of the Maine Criminal Code referenced in Title 19-A and Title 5).

The Maine Revised Statutes are available online at: www.mainelegislature.org/legis/statutes. The statutes contain the specific legal language and requirements that a judge applies when deciding a case under the protection laws.

USING COURT FORMS

The Maine District Court has forms you must use in protection cases. The District Court clerk can provide copies of the forms to be completed and can answer general questions. Clerks cannot help you determine which forms to use or tell

you what to put in the forms. Clerks and court staff are not allowed to give legal advice.

Many forms can be completed online using a computer and then printed. You may also handwrite the forms.

If you do not have access to a computer or printer, you can go to a library with public computer access and ask the librarian to help you find the forms, or use a computer and printer at another location. A list of public libraries can be found at: www.maine.gov/msl/libs/directories/public.

Online forms for both plaintiffs and defendants can be found at: www.courts.maine.gov/fees_forms/forms/index.shtml#pa.

A list of forms for both protection from abuse and protection from harassment cases for plaintiffs and defendants can also be found on the inside front cover and following page of this guide.

THIS GUIDE IS FOR INFORMATIONAL PURPOSES ONLY

Going to court, especially if you do not have a lawyer, can be stressful and challenging. This guide was written to help unrepresented parties who are involved in protection cases. To make the guide more readable, some sections of statutes, rules or administrative orders that apply have been shortened or summarized.

When the guide refers to things a plaintiff or a defendant must or may do, the pronoun "you" may be used. "You" may mean either party in the case depending upon the specific section of the guide.

While we have tried to ensure that the information is accurate and clear, please remember that the language of the statutes and other sources of law is the final word. If there is any conflict between the law and this guide, the law controls.

In addition, the guide describes the *general* procedures and requirements of the governing laws. The court's decision in individual cases will take into consideration the specific facts and circumstances of each case.

We have included a simple glossary of key legal terms at the end of the guide. Words in **bold** are defined in this section.

A FINAL WORD ON FILING ANY KIND OF COURT CASE

A protection from abuse or harassment case, like any other kind of case, should be started only when court involvement is necessary to protect a person or property from real harm. When you sign a court form or **affidavit**, you are stating that the information in the document is true to the best of your knowledge, information, and belief. Court rules say that any individual who knowingly makes a false statement in a court document or form, or at a hearing, may be liable for court expenses, including attorney's fees, paid by the other party.

It is also a crime to make a false statement under oath in a court document or hearing. In addition, a parent's misuse of the protection process to attempt to gain an advantage in a divorce or **parentage** case may be considered by the court in the divorce or parentage case when deciding parental rights and responsibilities.

PART A — *Protection from Abuse*

1. What is abuse?

- Attempting to cause or causing physical injury or offensive contact, including sexual assault;
- Attempting to place, or placing, another in fear of bodily injury through threatening, harassing or tormenting behavior;
- Compelling a person by force, threat of force or intimidation to do something or not do something that the person has a right or privilege to do or not do;
- Knowingly restricting substantially the movements of another person without that person's consent;
- Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life;
- Repeatedly, and without reasonable cause, following the plaintiff or being at or in the vicinity of the plaintiff's home, school, business, or work;

- Knowingly, and with the intent to harass, torment or threaten, disseminating a **private,** sexually explicit image of the plaintiff or another person without consent;
- Engaging in **sex trafficking** or **aggravated sex trafficking**; or
- **Financial exploitation**, or the intentional, knowing, or reckless deprivation of essential needs, if the abuse involves an incapacitated adult, dependent adult, or individual 60 years of age or older.

If the actions do not constitute abuse as specifically defined in the abuse law, the plaintiff may want to explore eligibility for a protection from harassment order. See Part B of this guide.

2. Who can ask a court for a protection from abuse order (be a plaintiff)?

- An **adult** who is the victim or target of the abuse;
- An adult on behalf of a **minor child** for whom the adult is responsible;
- An **emancipated minor**; or
- An **incapacitated adult** or **dependent adult**, represented by a **guardian**.

3. Who can be a defendant in a protection from abuse case?

- A spouse or ex-spouse;
- A domestic partner or ex-domestic partner;
- A current or former **dating partner** or intimate partner;
- A current or former **family or household member**;
- An **unpaid care provider** or **extended family member**, if the plaintiff is 60 years of age or older; or
- Anyone who has committed a sexual assault, engaged in stalking, sex trafficking, aggravated sex trafficking, or knowingly disseminated a private, sexually explicit image of the plaintiff without consent.

4. How is a protection from abuse case started?

Plaintiffs:

1. Fill out a ***Complaint*** *for Protection from Abuse (PA-001) (Complaint)* and other forms that apply (see the list of forms in the front of the guide).

2. Sign the forms in front of a notary, attorney, or court clerk, and give the forms to the District Court clerk's office.

You can go to the clerk's office in person to fill out and submit the forms or you can fill out the forms online, print, and then take them to the District Court to file. The clerk's office can provide clerical assistance to help you complete the forms, but cannot tell you what to put in the forms or give you legal advice.

A protection from abuse order is effective when it is signed by a judge. However, the order must be served on the defendant before he or she can be charged with a crime for violating the order, unless the defendant has prior actual notice of a protection order. For more information about service on the defendant, see Part A.10.

5. Which District Court should the plaintiff go to?

Go to the District Court location where you live, where the defendant lives, or where the you are currently staying if you have moved out of the home for safety reasons.

A list of District Courts can be found at the end of this guide in Appendix A and online at: www.courts.maine.gov/maine_courts/district.

6. Fees

There are no court filing or service fees in protection from abuse cases.

7. Tips for filling out the Complaint

Fill out the *Complaint* form completely.

Give as much detail as possible. What *specifically* did the defendant do or say, what injuries or harm did you (or, if you are submitting on behalf of a child plaintiff), suffer, or are in danger of suffering? Do not simply state, "The defendant stalked me," or "The defendant threatened to harm my child."

Provide details on the *most serious* and *most recent* abuse first. Be sure to include dates and times.

If you do not want the defendant to know where you are staying for safety reasons, fill out and file an ***Affidavit*** *for Confidential Address/Telephone Number* (PA-015) form. The defendant will not be able to see your current address or telephone number. The court does, however, need to have your contact information so the clerk's office can contact you about the case.

The last section of the *Complaint* form asks you to check boxes for the **relief** you are requesting. Be sure to check any and all boxes that you would like the court to consider.

Keep the clerk informed of any address changes. You may use the *Notice of Change of Address (CV/CR-199)* form to do so.

Special situations

Sexually explicit images

If your case involves the defendant releasing a private, sexually explicit image without consent, any images submitted with the *Complaint* are automatically placed under seal. This means the images will not be able to be viewed by or released to the public. The defendant and the defendant's attorney will only be able to view the images at the court, and only for the purpose of preparing a response to the *Complaint*.

Firearms or dangerous weapons

The court may prohibit the defendant from possessing firearms or other dangerous weapons in a protection case if certain conditions are met. See Part A.9 for detailed information.

8. Process for getting a temporary protection order

The judge may grant a **temporary order** if the judge believes the information you present qualifies for an order.

The clerk will tell you if a judge is available to review your *Complaint* when you submit it and will provide other information about what will happen next.

You may be asked to wait at the courthouse until a judge can review the *Complaint*. Follow the clerk's instructions.

The judge may interview you or ask you additional questions about the abuse. If the judge believes the information you have provided qualifies for immediate relief, the judge will sign the order.

The temporary protection can include some or all of the relief you have asked for in the *Complaint*.

The temporary protection order is effective when it is signed by the judge but the order must be served on the defendant before he or she can be charged with a crime for violating the order, unless the defendant has prior actual notice of the order.

The court will schedule a final hearing within 21 days from the date the case is filed. A final protection from abuse order may last up to two (2) years.

If you withdraw the case before a final hearing, any temporary protection order that was granted will no longer be in effect.

9. Restrictions on the defendant's right to own, receive, or possess firearms, other dangerous weapons, or ammunition

Maine law

Maine law allows the judge to prohibit (forbid) the defendant from possessing a firearm or other **dangerous weapon** in a temporary or final protection from abuse order. The conditions below must be met before the judge can order this.

In order to prohibit the defendant from possessing dangerous weapons, the judge must find that:

- The abuse involved the use or threatened use of a firearm or dangerous weapon; *or*
- A heightened risk of immediate abuse exists to you (the plaintiff) or a minor child in the household.

You must provide specific, detailed information on the defendant's use or threatened use in the *Complaint*.

Federal law

Depending upon the specific facts of the case, federal law may also apply to the defendant's right to own, receive, or possess firearms or ammunition in a **final order**.

For this federal prohibition to apply in the case, the defendant must have had actual notice and an opportunity to participate in a hearing.

In the protection order, the judge must have made a specific **finding of fact** that:

- The defendant represented a credible threat to the physical safety of the plaintiff or a minor child in the household; *or*
- The order must explicitly prohibit the defendant from the use, attempted use, or threatened use of physical force against the plaintiff or a minor child in the household that would reasonably be expected to cause bodily injury. (See Title 18 of the United States Code, Section 922(g)(8).)

Other sections of federal law may be relevant to this prohibition, or provide exceptions to this prohibition. Seek legal assistance if you have questions about whether the federal prohibition could or does apply in your case.

Providing information on dangerous weapons

Plaintiffs:

If you know what dangerous weapons the defendant has, be sure to describe them in as much detail as possible. Describe the kind of weapon(s), number of weapons, what the weapons look like, and where they are usually kept.

10. Service on the defendant

If the court grants a temporary protection order, it will generally arrange for service on the defendant. "Service" or "serving" a person means giving notice of the case to the defendant. A law enforcement officer (a sheriff's deputy or local police officer) will serve the defendant in person (also called service "in-hand.") The court may occasionally ask a plaintiff who is willing to do so to take copies of the court papers to the police department or sheriff's office to speed up service on the defendant. You are not required to do this.

In addition to paper copies, electronic copies of the court papers will also be transmitted to law enforcement. The court papers will be served if police or sheriff's officers encounter the defendant in a traffic stop, for example.

The defendant will be served even if you change your mind and decide not to give copies of the court papers to law enforcement for in-hand service.

The law enforcement officer serving the defendant will note the date and time the defendant was served. This is called "proof of service." Proof of service is important because the court will not hold a final hearing if it does not have proof that the defendant got official notice of the case.

You may want to follow up with the police department or sheriff's office to find out when the defendant was served. Make a note of this information for the final hearing.

What court papers will the defendant receive?

The defendant will receive a ***Summons****/Protection Order (PA-004)* informing the defendant where and when the final hearing will be held.

The defendant will also receive a copy of your *Complaint*, and if issued, the temporary protection order.

When does a temporary protection order take effect?

A temporary protection order takes effect as soon as it is signed by a judge. However, the defendant must have actual notice of the temporary order, or have been served with the order, in order to be charged with a crime for violating it.

11. When is a final hearing held in a protection from abuse case?

Whether or not the judge has granted a temporary protection order (if you have asked for one), your case will be scheduled for a final **hearing** within 21 days unless you have withdrawn the case.

If the case is withdrawn (dismissed **without prejudice**), you can file a new case at a later date.

12. Rights and responsibilities of a defendant in a protection from abuse case

Your rights as a defendant

If you are the defendant in a protection from abuse case, you have the right to:

- Receive a copy of the *Complaint* submitted in the case;
- Receive notice of the date, time, and place of the final hearing;
- Submit a written response to the plaintiff's *Complaint* (not required);

- Attend the final hearing and present evidence on your behalf, including testifying and calling witnesses to support your side of the case;
- Request that the clerk's office issue a **subpoena** for a witness to appear at the hearing, if necessary to ensure that the witness appears.
- Ask the court to **modify** (change) or **dissolve** (remove) a temporary protection order; and
- Hire an attorney or seek other assistance to respond or prepare a defense. Information on legal resources may be found on the back cover of this guide.

Your responsibilities as a defendant

If you are the defendant in a protection from abuse case, and you receive a temporary protection order, you must obey all parts of the order while it is in effect. If you do not, you are subject to arrest and criminal charges.

Only a judge may change the terms of a temporary protection order. The plaintiff cannot change the terms or give you permission to violate its terms. For example, if the temporary order prohibits you from entering a home you shared with the plaintiff, you will be charged with a crime if you enter the house, even if the plaintiff has invited you. Violation of a temporary protection order is a Class D crime that carries penalties of up to 364 days in jail and/or a fine of up to $2,000.

Request to modify or dissolve a temporary order

If you want to ask the court to modify or dissolve a temporary order, use the form: *Defendant's **Motion** to Dissolve Temporary Order for Protection or Motion to Modify/Amend Protection Order (PA-010)*.

- Form *PA-010* is available online, or from the District Court clerk's office. Online forms can be found at: www.courts.maine.gov/fees_forms.
- If you do not have access to a computer or printer and want to fill out the form online, you can go to a library that has public computer access and ask the librarian to help you find the form. When you have completed the form, sign in front of a notary, attorney, or clerk, and file at the District Court.

- There is no fee for submitting form *PA-010*. You may fill out the forms by hand.
- If you are requesting that the court modify or dissolve a temporary protection order, the plaintiff must be given 48 hours advance notice of the hearing unless the judge sets a shorter time.

Whether or not you submit a written response, if you want to oppose the plaintiff's request for relief, or say anything about the case, you must attend the final hearing.

If you were not served (did not receive notice from the court) by the date of the hearing, the court will reschedule the hearing for a later date.

Keep the clerk's office informed of any address changes. You may use the *Notice of Change of Address (CV/CR-199)* form to do so.

13. If a temporary order prohibits the defendant from possessing dangerous weapons

If a temporary order prohibits you from possessing firearms or other dangerous weapons, you must turn over the specified items to a law enforcement officer or other person as specified in the order.

If the order permits you to turn over the specified items to someone other than a law enforcement officer, you must file a statement identifying that person and listing all items turned over. The statement must be filed within 24 hours of turnover and given to either the court or the local police department or sheriff's office. The firearms or other dangerous weapons must be turned over within the time stated in the order.

14. Points to keep in mind before the final hearing

The clerk will schedule a final hearing on a protection from abuse case within 21 days from the filing of the *Complaint*.

The defendant must receive official notice of the case (be served) in order for the final hearing to be held. If the defendant has not been served by the date of the final hearing, the court will reschedule the hearing for a later date.

If the defendant has not been served by the date of the final hearing, the plaintiff must still go to court on that date to make sure the case is not dismissed and that any temporary order remains in effect.

Both parties must go to the final hearing or it is likely the judge will rule against the absent party. If the plaintiff does not attend the hearing, the judge will likely dismiss the case. If the case is dismissed, any temporary protection order will no longer be in effect.

If the defendant does not go to the hearing, the judge will likely sign a final protection from abuse order.

Requesting a postponement of the hearing

If the plaintiff or the defendant has an emergency and cannot attend the hearing on the date scheduled, that party must inform the court as soon as possible and request a **continuance** (postponement) in writing. The judge will decide whether to grant the request for a continuance.

15. Order by consent (without a hearing)

Before the final hearing begins, the judge may ask the parties if they are willing to consider entering into a protection order by consent instead of having a full hearing.

Consent orders are often worked out after the judge speaks with the parties in court, or through go-betweens such as domestic violence advocates or attorneys. If there is a temporary protection order prohibiting contact between the defendant and the plaintiff, there should be no direct discussion or contact between the parties without the judge present.

Consent orders can include the same protections and have the *same legal effect* that an order issued after a hearing would have. The defendant is subject to arrest and prosecution for violating a consent order the same as he or she would be for violating an order issued after a hearing.

However, a consent order is issued without a finding of fact by the judge that the defendant committed abuse, sexual assault, sex trafficking, stalking, or disseminated private, sexually explicit images.

16. What happens in a final hearing?

The final hearing is public and is held before a judge.

Presenting the case

Like any other civil court case, the plaintiff goes first and has the burden to prove the **allegations** in the *Complaint*.

The defendant will have an opportunity to present his or her defense after the plaintiff.

The plaintiff will have asked the court to grant specific kinds of relief in the *Complaint*. See Part A.17. The defendant should be prepared to explain why the relief the plaintiff has requested should not be granted, or suggest alternative arrangements. If the defendant believes that the plaintiff's case was filed without basis, the defendant should be prepared to present evidence of this.

Both the plaintiff and the defendant must be ready to present evidence, testify, and if necessary, call witnesses at the hearing.

In addition to the parties, individuals with personal knowledge of what happened may testify. If the case has been brought on behalf of a child under age 18, the child will probably be required to testify unless the plaintiff or another witness has personal knowledge of what happened and can testify instead.

Like other civil court cases, the final hearing is subject to the Maine Rules of Evidence, which limits the kind of information the judge may consider. The court will rule on any objections.

Who may attend the hearing?

Parties may be accompanied by friends and family members, and assisted by advocates or attorneys at the hearing. Support people may not testify if they do not have direct personal knowledge of the events described in the *Complaint*.

If the parties are the parents of minor children

If the plaintiff and the defendant are the parents of minor children, both parties must bring a completed *Child Support Affidavit (FM-050)* to the final hearing unless a child support order is already in place. The judge may ask questions about

income. If an order is granted, the judge may direct payment of child support if there is not a child support order in place already.

17. What relief may be included in a protection from abuse order?

An order for protection from abuse may include one or more of the following:

1. The defendant shall not hurt, threaten or interfere with the plaintiff and any children in the plaintiff's home;
2. The defendant shall not have any **direct** or **indirect contact** with the plaintiff;
3. The defendant shall stay away from the plaintiff's home, school, business or work;
4. The defendant shall not stalk or follow the plaintiff;
5. The defendant shall not possess firearms or other dangerous weapons;
6. The defendant shall not take, sell, damage or destroy any property that belongs to the plaintiff in whole or in part;
7. The defendant shall not injure or threaten to injure any animal owned or kept by either party;
8. The defendant shall not disseminate any private, sexually explicit images of the plaintiff; and
9. The defendant shall not destroy, transfer or tamper with the plaintiff's passport or other immigration document in the defendant's possession.

An order may also:

1. Grant temporary possession of the home to the plaintiff or the defendant;
2. Grant a division of personal property;
3. Grant custody, control or care of any animal owned or kept by either party or a minor child residing in the household;
4. Require the defendant to pay for the plaintiff's temporary support, loss of earnings, property damage, or moving expenses;

5. Require termination of any life insurance policy owned by the defendant insuring the plaintiff, with a copy of the order to be sent to the insurance company;
6. Require the defendant to get counseling or attend a certified batterers' intervention program;
7. Require the defendant to remove, destroy, or return to the plaintiff any private, sexually explicit images, or pay the costs associated with the removal, destruction, or return of the images; and
8. Pay damages related to the return or restoration of the plaintiff's passport or other immigration document, and any debts of the plaintiff arising from the sex trafficking relationship.

If the plaintiff and the defendant have children together, an order may also include one or more of the following:

1. Grant temporary parental rights (primary residence and visitation);
2. Order payment of child support, including an immediate payroll withholding to collect support; and
3. Order the filing of child support affidavits if not already done.

The judge can order the defendant to pay court costs and/or reasonable attorney's fees.

The judge can in the alternative order the plaintiff to pay court costs and/or reasonable attorney's fees, but only if the plaintiff loses the case and the court decides the *Complaint* was **frivolous**.

An order can specify any other relief that is necessary and appropriate.

Depending upon the specific findings of fact in the final order, the defendant may also be prohibited from owning, receiving, or possessing firearms or ammunition under federal law, even if the defendant was not prohibited from possessing firearms or dangerous weapons under Maine law. See Part A.9.

18. How long may a final protection from abuse order last?

Up to two (2) years. The judge may order a shorter period at his or her discretion, or by consent of the parties.

19. What if the defendant violates the order?

The plaintiff should call the police and tell them that the defendant has violated a protection from abuse order (temporary or final).

Call 911 if anyone is in immediate danger.

Depending upon the specific terms of the order, the defendant may be guilty of a Class D or Class C crime and may be subject to arrest or fine.

The police officer does not need to witness the violation in order to arrest the defendant.

20. Changing or ending a final protection order

Only a judge can modify (change), terminate (end), or extend a protection order, even if the parties have changed their minds about the terms, or reached an agreement. Until a judge has done so, the original order remains in effect. Any violation may put the defendant at risk of arrest or prosecution.

To modify an order before it ends, the party requesting a modification must file a written request (a motion) with the District Court clerk.

Plaintiff: use Plaintiff's *Post-Judgment Motion to Modify/Motion to Terminate Protection Order (PA-022)*. Defendant: use *Defendant's Motion to Dissolve Temporary Order for Protection or to Modify/Amend (with incorporated Affidavit) (PA-010)*.

The clerk will give a date and time for a hearing and will arrange for service by mail or by law enforcement.

The same general process applies to a motion to modify a protection order as the process described in Part A.10-A.16.

21. If the plaintiff wants the protection order extended

An order of protection from abuse may last up to two (2) years. If the plaintiff wants the order to last longer, the plaintiff must file a written request with the District Court clerk. Use the *Motion to Extend Order for Protection (PA-013)* form.

The plaintiff should file the request to extend the protection order 30 days before the expiration date of the order to prevent a gap in protection. If the plaintiff does not file a request to extend the protection order, the original order remains

in effect until the expiration date. If the plaintiff does not file a *Motion to Extend Order for Protection* by the expiration date and still wants protection, the plaintiff will need to file a new *Complaint* with new allegations of abuse.

The same general process applies to a motion to extend a protection order as the process described in Part A.10-A.16. The defendant has the right to respond by going to the hearing on the motion to extend the order, and/or by filing his or her own motion to modify, dissolve or amend the order (see form *PA-010*).

22. Protection from abuse order issued by a court in another state

If you received a temporary or final protection from abuse order from a court in another state, you may file, or "register" the order with the District Court in Maine. You are not required to register an order from another state in order for it to be enforced in Maine, but it may help law enforcement officers in enforcing it. An order from another state is sometimes called a "foreign judgment."

To register an order, provide an **authenticated copy** of the temporary or final order from the other state to the clerk's office in the District Court in the county where you live. Keep a copy of the order for your records.

The defendant will have received notice of the temporary or final order from the court in the other state, and will not be notified that you have registered the order.

Once an authenticated copy of the order is registered, it is treated the same as if it had been issued originally by a Maine court.

PART B — *Protection from Harassment*

1. What is harassment?

- Three (3) or more acts of intimidation, confrontation, actual or threatened physical force by the defendant, made with the intention of causing fear, intimidation, or damage to personal property, and which do in fact cause fear, intimidation, or damage to personal property; or
- A single act or course of conduct constituting a serious criminal act, such as sexual assault, terrorizing, kidnapping, aggravated assault, arson, or violation of privacy; or
- Violating or interfering with the plaintiff's constitutional or civil rights.

2. Who can ask a court for a protection from harassment case?

- Any person, including those listed in Part A.2; and
- A business.

3. Who can be a defendant in a protection from harassment case?

- Any individual can be a defendant in a protection from harassment case. No special relationship between the plaintiff and the defendant is required.
- If someone with whom you had or have a relationship has abused you, you may file a *Complaint for Protection from Abuse (PA-001)*. See Part A of the guide.

4. How is a protection from harassment case started?

Getting a "cease harassment" notice from law enforcement

In most cases, the plaintiff must show that law enforcement has issued a notice to the defendant to stop the harassment (sometimes called a cease-harassment notice) before starting a protection from harassment case.

To have law enforcement issue a cease-harassment notice, go to your local police department or sheriff's office and report the harassment. Get a copy of the cease-harassment notice and submit it with your *Complaint for Protection from Harassment (PA-006) (Harassment Complaint)*.

In some situations, simply reporting the situation to law enforcement will stop the harassment.

You are *not* required to file a copy of a cease-harassment notice if the *Harassment Complaint* is based on sexual assault, stalking, or another serious criminal act.

You can also ask the court to waive the cease-harassment notice if you have a good reason for requesting a waiver of notice.

5. Which District Court should the plaintiff go to?

You can go to the District Court location where you live, where the defendant lives, or where your business is located. A list of District Courts can be found at: www.courts.maine.gov/maine_courts/district.

6. Fees

There is a fee for filing a *Harassment Complaint* unless the *Harassment Complaint* is based on abuse, stalking, sexual assault, the dissemination of a private, sexually explicit image without consent, or sexual trafficking. The clerk will give you information on what the current fees are. In addition, a schedule of fees can be found in Administrative Order JB-05-26, available online at: www.courts.maine.gov/rules_adminorders/adminorders.

If you cannot afford the fees, you may request a waiver from the judge. The clerk will provide an affidavit for you to file to request a waiver.

7. Tips for filling out the Harassment Complaint

See Part A.7.

8. Can a plaintiff get a temporary protection from harassment order?

Yes. The plaintiff must show that he or she is in *immediate danger* of physical abuse or extreme **emotional distress**. If the plaintiff is a business, the plaintiff must show that the business is in immediate danger of suffering substantial damage as a result of the defendant's actions.

A temporary protection from harassment order may prohibit the defendant from some or all of the following:

1. Threatening, assaulting, interfering with, harassing, restraining, or otherwise disturbing the peace of the plaintiff or the plaintiff's employees;

2. Entering the plaintiff's residence or property;
3. Taking, selling or damaging property owned or partly owned by the plaintiff;
4. Repeatedly, and without reasonable cause, following the plaintiff; being at or near the plaintiff's home, school, business or work;
5. Having any direct or indirect contact with the plaintiff; or
6. Destroying, transferring or tampering with the plaintiff's passport or other immigration document in the defendant's possession.

See Part A.8 for additional information on the process for getting a temporary protection order.

9. When will a final hearing be held in a protection from harassment case?

A final hearing in a protection from harassment case will be scheduled at the earliest available date, but unlike a protection from abuse case, does not have to be scheduled within 21 days.

10. Service on the defendant

The *Summons*, *Harassment Complaint*, and additional forms that were submitted to the court must be served on the defendant before a hearing can be held.

If the court grants a temporary protection order, it will generally arrange for service on the defendant. The court may occasionally ask a plaintiff who is willing to do so to take copies of the court papers to the police department or sheriff's office to speed up service on the defendant. You are not required to do this.

There is no fee for service if:

- The *Harassment Complaint* involves domestic or dating violence, sexual assault, stalking, dissemination of a private, sexually explicit image, or sexual trafficking; or
- The court grants a temporary protection from harassment order, regardless of the grounds.

As with a protection from abuse case, a final hearing will not be held until the defendant has received official notice of the case (been served).

See additional information on service in Part A.10.

11. Rights and responsibilities of a defendant in a protection from harassment case

A defendant in a protection from harassment case has the same rights and responsibilities as a defendant in a protection from abuse case. See Part A.12.

12. Scheduling a final hearing in a protection from harassment case

The clerk will schedule a final hearing on a protection from harassment case after the judge has signed a temporary order for protection.

If the judge has decided not to issue a temporary order, a final hearing may still be scheduled.

The defendant must have received notice (been served) prior to the final hearing date. A final hearing will be scheduled at the earliest possible date. See Part A.14 and A.16 for other information related to a final hearing.

13. Orders by consent (without a hearing)

The court may work out an order by consent in a protection from harassment case the same way as in a protection from abuse case. See Part A.15.

The court may also explore settlement options with the parties or require mediation to help the parties settle the case without a full court hearing.

14. What happens in a final hearing?

If a final hearing is held, the same process applies as in a protection from abuse case. See Part A.16.

15. What relief can be included in a final protection from harassment order?

A final protection from harassment order may prohibit the defendant from some or all of the following:

1. Harassing, threatening, assaulting, interfering with, attacking or otherwise abusing the plaintiff or the plaintiff's employees;
2. Entering the plaintiff's property or residence;
3. Interfering with or destroying the plaintiff's property;
4. Repeatedly and without reasonable cause: following the plaintiff; being at or near the plaintiff's home, school, business or work;
5. Having any direct or indirect contact with the plaintiff; and
6. Destroying, transferring or tampering with the plaintiff's passport or other immigration documents in the defendant's possession.

A final order may also require the defendant to pay money to the plaintiff for losses suffered as a direct result of the harassment. Losses are limited the following:

1. Loss of earnings or support;
2. Reasonable expenses incurred for safety protection;
3. Reasonable expenses incurred for personal injuries or property damage;
4. Reasonable moving expenses; and
5. Damages related to the return or restoration of the plaintiff's passport or other immigration documents and any debts of the plaintiff arising from the sex trafficking relationship.

The judge can order the defendant to pay court costs and/or reasonable attorney's fees.

The judge can in the alternative order the plaintiff to pay court costs and/or reasonable attorney's fees, but only if the plaintiff loses the case and the court decides the *Harassment Complain*t was frivolous.

An order can specify any other relief that is necessary and appropriate.

16. How long may a protection from harassment order last?

Up to one (1) year.

17. What if the defendant violates the protection from harassment order?

If the defendant violates the protection from harassment order, he or she may be guilty of a Class D crime and may be subject to arrest, fine, or contempt of court (if the defendant fails to pay money damages ordered by the court). See Part A.19 for additional information on what to do if a defendant violates a protection from harassment order.

18. Modifying or extending a protection from harassment order

The same general process applies to modifying or extending a protection from harassment order as to a protection from abuse order. Both the plaintiff and the defendant may request that the court modify or extend a protection from harassment order. See Parts A. 20 and A. 21.

19. Protection from harassment orders issued by another state

A protection from harassment order issued by another state is treated the same as an order issued by a Maine court. See Part A. 22 of this guide for the rights and responsibilities that apply to the plaintiff and the defendant.

DEFINITION OF KEY TERMS

Abuse: Attempting to cause or causing physical injury or offensive contact, including sexual assault; attempting to place, or placing, another in fear of bodily injury through threatening, harassing or tormenting behavior; compelling a person by force, threat of force or intimidation to do something that the person has a right or privilege to abstain from doing; knowingly restricting substantially the movements of another person without that person's consent; communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life; repeatedly, and without reasonable cause, following the plaintiff or being at or in the vicinity of the plaintiff's home, school, business, or work; knowingly, and with the intent to harass, torment or threaten, disseminating a private, sexually explicit image of the plaintiff or another person without consent; or engaging in sex trafficking or aggravated sex trafficking.

Adult: An individual who is 18 years of age or older, or an emancipated minor.

Affidavit: A written statement made voluntarily, and signed under oath.

Aggravated sex trafficking: Compelling an individual to enter into, engage in, or remain in prostitution through force, threat of force, coercion, or fraud; promoting prostitution of an individual under the age of 18; or promoting prostitution of an individual who suffers from a mental disability, as further defined in Title 17-A of the Maine Revised Statutes, Section 852.

Allegation(s): Statements or claims made in a complaint and other court documents, not yet proven.

Authenticated copy: A copy of an order or other court document with: 1) the clerk's seal or signature attesting that the document is a true copy; 2) a judge's attestation that the clerk is the clerk of said court and the proper person to make out and certify said document; and 3) the clerk's further attestation that the judge signing is duly qualified and commissioned, and the proper person to make out and certify the document in question. In Maine, this is sometimes referred to as an "exemplification."

Complaint: The term for the first document filed with a court to start a case. Form *PA-001* is used in protection from abuse cases, and form *PA-006* is used in protection from harassment cases.

Continuance: Postponement of a hearing at the written request of one or both parties. Only a judge can grant a continuance.

Dangerous weapon: Firearm or other device, instrument, material, or substance, whether animate or inanimate, used as a weapon and capable of causing death or serious physical injury.

Dating partners: Individuals currently or formerly involved in dating each other, whether or not the individuals are or were sexual partners.

Defendant: The individual against whom a case is filed.

Dependent adult: An adult who has a physical or mental condition that substantially impairs the adult's ability to adequately care for his or her daily needs.

Direct contact: Any time the defendant is in physical proximity to the plaintiff, or any attempt to contact the plaintiff through other means, including telephone, letter, email, texting, or messages from the defendant posted on the plaintiff's social media accounts.

Dissolve: To end a temporary or final protection order. The court sometimes uses the term "terminate" to mean the same thing.

Emancipated minor: An individual under the age of 18 who has been emancipated by court order.

Emotional distress: Mental or emotional suffering shown by fear, anxiety, torment, or apprehension.

Extended family member(s): Any family members related by blood, marriage, or adoption.

Family or household member(s): A spouse or ex-spouse; domestic partner or ex-domestic partner; individuals who are, or were, living together; parents of the same child; adult household members related by blood or marriage; minor children of a household member when the defendant is an adult household member; or current or former dating or intimate partners.

File: To file is to fill out and submit forms or documents (a filing) to begin a case, or ask a court to do something in a case.

Final order: In a case under the protection laws, an order that a judge grants at the final hearing. See also Order and Temporary order.

Financial exploitation: The use of deception, intimidation, undue influence, force or other unlawful means to obtain control over the property of a dependent adult for another's profit or advantage.

Finding of fact: A determination by a judge of a factual question or issue.

Frivolous: A finding by a judge that the allegations in the complaint or other documents lack any basis in fact and were intended to harass, embarrass or delay.

Guardian: An individual who has the legal authority and duty to care for the interests of another. A parent is usually a guardian of his or her child or children. A guardian can also be an individual or governmental agency that is legally appointed on behalf of a child or incapacitated or dependent adult.

Harassment: Under the protection laws, three (3) or more acts of intimidation, confrontation, actual or threatened physical force by the defendant, made with the intention of causing fear, intimidation or damage to personal property, and which do in fact cause fear, intimidation or damage to personal property; or a single act or course of conduct constituting a serious criminal act; or violating or interfering with the plaintiff's constitutional or civil rights.

Hearing: A court proceeding before a judge, similar to a trial.

Incapacitated adult: An adult who is impaired by reason of mental illness, mental deficiency, physical illness or disability to the extent that he or she lacks sufficient understanding or capacity to make or communicate responsible decisions concerning themselves, or to the extent that he or she cannot effectively manage his or her own property.

Indirect contact: Any effort by the defendant to contact the plaintiff through other people, including having others give the plaintiff letters or images, or forward emails, texts, or social media messages to the plaintiff.

Individual: A natural person; a human being as distinguished from a business or entity.

Minor child: An individual under the age of eighteen (18).

Modify: To make changes to the terms of an order in response to the request of a party, if permitted.

Motion: A written application by a party to a court.

Order: A direction by a judge to one or both parties to do or not do something. In a case under the protection laws, a judge may issue a temporary protection order, a final protection order (after a final hearing), or an order by consent (agreed to by both the plaintiff and the defendant).

Parentage: The legal relationship between a child and a parent; the legal status of being a parent.

Parties: Collectively, the plaintiff and the defendant in a court case. The singular term, party, can refer to either the plaintiff or the defendant.

Plaintiff: The individual filing a case.

Private, sexually explicit image(s): In cases under the protection laws, a photograph, videotape, film, or digital recording of the plaintiff or another person in a state of nudity or engaged in a sexual act or simulated sexual act, which the defendant has distributed without the plaintiff's consent and with intent to harass, torment or threaten.

Relief: The specific protection asked for by a party or ordered by a judge.

Serious criminal act: In cases under the protection from harassment law, an alleged violation by the defendant of any of the following sections of Title 17-A of the Maine Revised Statutes: 201(murder); 202 (felony murder); 203 (manslaughter); 204 (aiding and abetting suicide); 207 (assault); 208 (aggravated assault); 209 (criminal threatening); 210 (terrorizing); 210-A (stalking); 211 (reckless endangerment); 253 (gross sexual assault); 301 (kidnapping); 302 (criminal restraint); 303 (criminal restraint by parent); 506-A (harassment); 511 (violation of privacy); 511-A (dissemination of private, sexually explicit images); 556 (incest); 802 (arson); 805 (aggravated criminal mischief); 806 (criminal mischief); 852 (aggravated sex trafficking); and 853 (sex trafficking).

Service: The process of giving a party official notice of a case or request by the other party so that the person receiving the notice and legal papers may respond.

Sex trafficking: Action or behavior by the defendant that promotes an adult to enter into, engage in, or remain in prostitution as further defined in Title 17-A of the Maine Revised Statutes, Section 853.

Sexual assault: In cases under the protection laws, any sexual assault in Title 17-A of the Maine Revised Statutes, Sections 251-261, including gross sexual assault or unlawful sexual contact.

Stalking: Two (2) or more acts by the defendant involving following, monitoring, threatening, harassing, interfering with property, or communicating with or about a specific person with the purpose of causing the plaintiff to suffer serious inconvenience or emotional distress; fear physical injury (the plaintiff or a close relative); fear damage to or destruction of property; or fear injury, harm or death to an animal owned or kept by the plaintiff.

Subpoena: An order by a judge directing an individual to appear in court on a specified date and time.

Summons: An order by a judge directing the defendant to appear in court on a specified date and time.

Temporary order: In a case under the protection laws, an order that a judge grants after the plaintiff files the *Complaint* but before the final hearing is held. A temporary order does not take effect until the defendant receives a copy of it (is served). See also Order and Final order.

Unpaid care provider: An individual who voluntarily provides full or occasional personal care to an adult in the adult's home, similar to the way a family member would provide personal care.

Without prejudice: A dismissal of a Complaint allowing the plaintiff to re-file the case at a later time on the same facts or events. A dismissal with prejudice requires the plaintiff to allege new facts or events in order to file a Complaint.

APPENDIX A — *District Courts*

If you are not sure which District Court is the correct court for your case, go to: www.courts.maine.gov/maine_courts/findacourt/. TTY number for all District Courts is 711 Maine Relay.

AUGUSTA
1 Court Street, Suite 101, Augusta, ME 04330 (207) 213-2800

BANGOR
78 Exchange Street, Bangor, ME 04401 (207) 561-2300

BELFAST
103 Church Street, Belfast, ME 04915 (207) 338-3107

BIDDEFORD
25 Adams Street, Biddeford, ME 04005 (207) 283-1147

BRIDGTON
3 Chase Street, Suite 2, Bridgton, ME 04009 (207) 647-3535

CALAIS
382 South Street, Suite B, Calais, ME 04619 (207) 454-2055

CARIBOU
144 Sweden Street, Suite 104, Caribou, ME 04736 (207) 493-3144

DOVER-FOXCROFT
159 East Main Street, Suite 21
Dover-Foxcroft, ME 04426
(207) 564-2240

ELLSWORTH
50 State Street, Suite 2, Ellsworth, ME 04605 (207) 667-7141

FARMINGTON
129 Main Street, Suite 1, Farmington, ME 04938 (207) 778-8200

FORT KENT
139 Market Street, Suite 101, Fort Kent, ME 04743 (207) 834-5003

HOULTON
26 Court Street, Suite 201, Houlton, ME 04730 (207) 532-2147

LEWISTON
Physical: 71 Lisbon Street, Lewiston, ME 04240 (207) 795-4801
Mailing: P.O. Box 1345
Lewiston, ME 04243-1345

LINCOLN
52 Main Street, Lincoln, ME 04457
(207) 794-8512

MACHIAS
Physical: 85 Court Street, Machias, ME 04654 (207) 255-3044
Mailing: P.O. Box 526, Machias, ME 04654-0526

MADAWASKA
Physical: 645 Main Street, Madawaska 04756 (207) 728-4700
Mailing: 139 Market Street, Suite 101, Fort Kent, ME 04743

MILLINOCKET
Physical: 207 Penobscot Avenue, Millinocket, ME 04462
(207) 723-4786
Mailing: 52 Main Street, Lincoln, ME 04457

NEWPORT
12 Water Street, Newport, ME 04953
(207) 368-5778

PORTLAND
205 Newbury Street, Portland, ME 04101 (207) 822-4200

PRESQUE ISLE
27 Riverside Drive, Presque Isle, ME 04769 (207) 764-2055

ROCKLAND
62 Union Street, Rockland, ME 04841
(207) 596-2240

RUMFORD
145 Congress Street, Rumford, ME 04276 (207) 364-7171

SKOWHEGAN
47 Court Street, Skowhegan, ME 04976
(207) 474-9518

SOUTH PARIS
26 Western Avenue, South Paris, ME 04281 (207) 743-8942

SPRINGVALE
447 Main Street, Springvale, ME 04083
(207) 459-1400

WATERVILLE
18 Colby Street, Waterville, ME 04901
(207) 873-2103

WEST BATH
101 New Meadows Road, West Bath, ME 04530 (207) 442-0200

WISCASSET
Physical: 32 High Street, Wiscasset, ME 04578 (207) 882-6363
Mailing: P.O. Box 249, Wiscasset, ME 04578-0249

YORK
11 Chases Pond Road, York, ME 03909
(207) 363-1230

APPENDIX B — *Sheriffs' Offices*

The Sheriffs' Directory page on the Judicial Branch website has links to all Sheriff Office websites. See: www.courts.maine.gov/maine_courts/small_claims/sheriffs.

ANDROSCOGGIN
2 Turner Street, Auburn, ME 04210
(207) 753-2500

AROOSTOOK
25 School Street, Suite 216, Houlton, ME 04730 (207) 532-3471

CUMBERLAND
36 County Way, Portland, ME 04102
(207) 774-1444

FRANKLIN
123 County Way, Farmington, ME 04938 (207) 778-2680

HANCOCK
50 State Street, Suite 10, Ellsworth, ME 04605 (207) 667-7575

KENNEBEC
125 State Street, Augusta, ME 04330
(207) 623-3614

KNOX
301 Park Street, Rockland, ME 04841
(207) 594-0429

LINCOLN
42 Bath Road, P.O. Box 611, Wiscasset, ME 04578 (207) 882-6576

OXFORD
26 Western Avenue, P.O. Box 179, South Paris, ME 04281 (207) 743-9554

PENOBSCOT
85 Hammond Street, Bangor, ME 04401 (207) 947-4585

PISCATAQUIS
52 Court Street, Dover-Foxcroft, ME 04426 (207) 564-3304

SAGADAHOC
752 High Street, P.O. Box 246, Bath, ME 04530 (207) 443-8528

SOMERSET
131 E. Madison Road, Madison, ME 04950 (207) 474-9591

WALDO
45 Congress Street, Belfast, ME 04915
(207) 338-6786

WASHINGTON
83 Court Street, Machias, ME 04654
(207) 255-4422

YORK
1 Layman Way, Alfred, ME 04002
(207) 324-1113

APPENDIX C — *General information*

DISABILITY ACCOMMODATION

The Maine Judicial Branch makes every reasonable effort to provide accommodations and auxiliary aids and services to people with disabilities at no cost to them so that they may access the court and its services. You may talk to your lawyer about arranging for accommodations, or contact the Court Access Coordinator at 207-822-0718, TTY: Maine Relay 711, or accessibility @courts.maine.gov with requests. You may also contact the clerk's office in the court where your case is being heard. A link to the Disability Accommodation Request Form on the Judicial Branch website may be found at: www.courts.maine.gov/citizen_help/access_interp.

LANGUAGE ACCESS

The Maine Judicial Branch provides interpreters to people who have Limited English Proficiency (LEP) or who are deaf or hard of hearing at no cost to them so that they may access the court and its services. The Judicial Branch must also provide an ASL interpreter to court observers who are deaf or hard of hearing upon request. Please talk to your lawyer about arranging for an interpreter, or contact the Communications Access Specialist directly at 207-822-0703, TTY: Maine Relay 711, or interpreters@courts.maine.gov with requests, You may also contact the clerk's office where your case is being heard. More information on interpreter assistance can be found on the Judicial Branch website at:
www.courts.maine.gov/maine_courts/admin/interpreters/.

INFORMATIONAL PURPOSES ONLY

This guide is to help parties in protection from abuse and protection from harassment cases better understand how a case is started and what happens in the case. To make the guide more readable, the court process and laws involved have been summarized.

Do not rely on the information in this guide as a complete description of all the laws that may come into play in a protection case. If you have questions about the law or court process, please ask your lawyer or seek legal assistance.

NOTES

NOTES

If you are a victim of violence, abuse, or harassment and believe you are in immediate danger, call 9-1-1.

For help locating emergency services in your area, call 2-1-1.

Maine State Bar Association Lawyer Referral Service
1-800-860-1460 www.mainebar.org/page/AttorneyRequest
($25 administrative fee to help individuals find a private lawyer; includes a 30-minute consultation.)

Maine Coalition to End Domestic Violence
1-866-83-4HELP www.mcedv.org

Maine Coalition Against Sexual Assault
1-800-871-7741 www.mecasa.org

Immigrant Resource Center of Maine
207-753-0061 www.ircofmaine.org

Legal Services for the Elderly
1-800-750-5353 www.mainelse.org

Wabanaki Women's Coalition
1-844-7NATIVE www.wabanakiwomenscoalition.org

Advocacy Centers:
Micmac 207-551-3639
Maliseet 207-532-6401
Indian Township Passamaquoddy 207-214-1917
Passamaquoddy Peaceful Relations 1-877-853-2613
Penobscot Nation 207-631-4886

See also Pine Tree Legal Assistance webpage on Protection from Abuse
ptla.org/protection-abuse-maine-first-steps-frequently-asked-questions

Maine Judicial Branch
Administrative Office of the Courts
1 Court Street, Suite 301, Augusta, Maine 04330
www.courts.maine.gov