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# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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Legislative Document

No. 1654

H.P. 1127

House of Representatives, March 16, 2016

### **An Act To Strengthen Protection from Abuse Laws**

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Reference to the Committee on Judiciary suggested and ordered printed.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative HEAD of Bethel. (GOVERNOR'S BILL)  
Cosponsored by Representatives: FOLEY of Wells, HILLIARD of Belgrade, HOBART of  
Bowdoinham, LYFORD of Eddington, MAKER of Calais, SEAVEY of Kennebunkport,  
TUELL of East Machias, WALLACE of Dexter.

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

2 **Sec. 1. 19-A MRSA §4011, sub-§§5 and 6** are enacted to read:

3 **5. Mandatory minimum sentences.** The court shall impose a term of imprisonment  
4 for a person who violates a protective order or agreement as provided in subsection 1 as  
5 follows.

6 A. For a first conviction of a violation under subsection 1, the court shall impose a  
7 definite term of imprisonment of not less than 30 days.

8 B. If a person has one prior conviction of a violation under subsection 1, the court  
9 shall impose a definite term of imprisonment of not less than 90 days.

10 C. If a person has 2 or more prior convictions of a violation under subsection 1, the  
11 court shall impose a definite term of imprisonment of not less than 365 days.

12 Title 17-A, section 9-A governs the use of prior convictions when determining a  
13 sentence, except that, for purposes of this subsection, the date of each prior conviction  
14 may precede the commission of the offense being enhanced by more than 10 years.

15 **6. Mandatory minimum sentences for reckless conduct or assault.** The court  
16 shall impose a term of imprisonment for a person who commits a violation under  
17 subsection 4 as follows.

18 A. For a first conviction of a violation under subsection 4, the court shall impose a  
19 definite term of imprisonment of not less than 2 years.

20 B. If a person has one prior conviction of a violation under subsection 4, the court  
21 shall impose a definite term of imprisonment of not less than 3 years.

22 C. If a person has 2 or more prior convictions of a violation under subsection 4, the  
23 court shall impose a definite term of imprisonment of not less than 4 years.

24 Title 17-A, section 9-A governs the use of prior convictions when determining a  
25 sentence, except that, for purposes of this subsection, the date of each prior conviction  
26 may precede the commission of the offense being enhanced by more than 10 years.

27 **Sec. 2. 19-A MRSA §4015** is enacted to read:

28 **§4015. False claim**

29 **1. Crime.** A person who knowingly makes a false claim of abuse or neglect or  
30 abandonment, as defined in Title 22, section 4002, subsections 1 and 1-A; sexual  
31 exploitation of a minor, as set out in Title 17-A, section 282; aggravated sex trafficking as  
32 set out in Title 17-A, section 852; sex trafficking as set out in Title 17-A, section 853; or  
33 patronizing prostitution of a minor or person with a mental disability as set out in Title  
34 17-A, section 855, subsections 1 and 3 in any proceeding conducted under this chapter is  
35 guilty of the crime of false claim if the false claim was made in order to gain an  
36 advantage in divorce proceedings.

37 **2. Penalty.** False claim is a Class C crime.

1 **SUMMARY**

2 This bill requires a court to sentence a person convicted of violating a protective  
3 order or court-approved consent agreement, currently a Class D crime, to a minimum  
4 term of imprisonment of 30 days. Subsequent convictions of violating a protective order  
5 or court-approved consent agreement are subject to enhanced minimum sentences.

6 This bill also requires a court to sentence a person convicted of violating a protective  
7 order through conduct that is reckless and that creates a substantial risk of death or  
8 serious bodily injury to the plaintiff named in the protective order or who assaults the  
9 plaintiff named in the protective order, currently a Class C crime, to a minimum term of  
10 imprisonment of 2 years; subsequent convictions are subject to enhanced minimum  
11 sentences.

12 This bill also creates the Class C crime of false claim, which occurs when a person  
13 during a proceeding for a protection from abuse petition makes a false claim of abuse or  
14 neglect or abandonment of a child or alleges sexual exploitation of a minor, sex  
15 trafficking, aggravated sex trafficking or patronizing prostitution of a minor or person  
16 with a mental disability and that claim or allegation is made for the purpose of gaining an  
17 advantage in a divorce proceeding.