

## MAINE FAMILY LAW ADVISORY COMMISSION

### Report to Maine Legislature Joint Standing Committee on Judiciary

#### **LD 2103, An Act to Protect Victims of Domestic Abuse and Violence by Amending the Law Regarding Proximity Restrictions in Final Protection from Abuse Orders**

The Maine Family Law Advisory Commission (FLAC) hereby reports to the Maine Legislature, Joint Standing Committee on Judiciary, on "An Act to Protect Victims of Domestic Abuse and Violence by Amending the Law Regarding Proximity Restrictions in Final Protection from Abuse Orders," LD 2103. For the reasons set forth below, FLAC supports this bill.

#### Background

The Protection from Abuse statute in Maine spells out relief that the court may grant in a final Protection from Abuse (PFA) order in 19-A M.R.S. § 4110. In subsection (3)(E), the statute currently states that the court may direct the defendant, the perpetrator of abuse, to refrain from the following:

- (1) Following the plaintiff;
- (2) Being at or in the vicinity of the plaintiff's home, school, business or place of employment;  
or
- (3) Engaging in conduct defined as stalking . . . .

19-A M.R.S. §§ 4110(3)(E)(1-3).

The amendment proposed by LD 2103 would give a judge the option to include specific distance limits in the conditions of a PFA order. FLAC views the amendment as helpful to clarify the protections set forth in PFA orders.

#### Discussion

At present, the PFA statute does not state that a judge may order a defendant to maintain a certain distance from the plaintiff (the person who obtained the PFA order). For example, a defendant could be ordered to stay at least 20 feet, or perhaps 100 feet, from the person who obtained the PFA order. This addition to the statute would put parties on notice that a specific distance limitation is available in PFA orders.

The proposed amendment wisely does not specify a fixed distance limit that all PFA orders must contain. This is a prudent choice because local conditions and the circumstances of parties' lives will vary. It is a matter properly left to the judge's discretion to order a defendant to maintain an appropriate distance from the plaintiff that fits their situation.

Further, the proposed amendment states that the defendant must refrain from *knowingly* being within a certain distance of the plaintiff. In some instances, especially in small towns or at a

major community event, it is likely that the two parties could end up in the same vicinity without knowing that the other would be present. For example, both parties might—without knowledge of the other—decide to attend a town parade on the Fourth of July, or the Fryeburg Fair. Of course, a defendant must be cognizant of restrictions imposed by a PFA order, but a defendant who attends a public gathering without any intention of encountering the plaintiff, and who unwittingly comes closer to the plaintiff than the PFA order permits, should not automatically be treated as having engaged in stalking or similar conduct.

Finally, though the current PFA statute allows judges to enter “any other orders determined necessary or appropriate,” § 4110(3)(U), this amendment makes it clear to judges that they may order specific distance limits. As a result, it would help to improve uniformity of PFA orders across the state.

### **Conclusion**

For the reasons set forth above, FLAC recommends that LD 2103 be enacted.

Dated: January 22, 2024

Respectfully submitted:  
Maine Family Law Advisory Commission

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