

# Domestic Abuse

## It's against the law for family or household members to:

- injure you or attempt to injure you;
- threaten you so that you fear for your physical safety;
- force sexual contact or relations on you against your will;
- place you in fear of bodily injury;
- use force or threat of force against you to get you to do something that you have a right not to do; or
- restrict your movements or confine you against your will.

If any member of your household or your spouse, ex-spouse, partner or ex-partner has done any of these things to you or to a minor child in your care or custody, you may seek the help and protection of the court and police. You may ask the court to order your abuser to stay away from you and to stop abusing you. If a minor child you are responsible for is abused, you may seek relief for the child. Separately, but in addition, you may also ask the police to initiate criminal charges against your abuser.

## Protection From Abuse

There is a special law in Maine designed to protect any adult or minor child against domestic violence. Called "Protection from Abuse" (PFA), this law is found in Title 19-A M.R.S.A. Sections 4001-4014. To use the law, you do not have to be married to or even living with the person who abused you or who has threatened to abuse you, so long as you were married or lived together in the past, or you have a mutual child, or are or were in a sexual relationship. You do not have to file for a divorce; you do not have to have a lawyer; and, you do not have to pay any court costs or sheriff's fees.

## The Courts Can Help

### Emergency Orders

The court can give you emergency protective orders if you can show that you are in immediate danger of being abused. The court may issue immediate orders, directing your abuser not to abuse you and not to enter your residence. The court may also issue an emergency order granting you temporary custody of your children.

These orders may be issued the same day you file your papers, and are in effect, especially for custody of children, once they are signed. However, violations of the order cannot be prosecuted until your abuser has actual notice of the order or has been served with it by a sheriff or police officer. The orders are in effect anywhere in Maine, are stored on a Maine State Police online system, and can be accessed by police once they have been served.

## How to Get a PFA Order

### Step One - Find the Appropriate Court

Usually you need to go to the District Court of the county in which either you or your abuser lives.

If the courthouse is closed, and no other provision can be made for shelter for yourself or for your minor child, call the police for assistance in filing a complaint with any District Court Judge or Superior Court Justice they can locate.

If you have left your home and are temporarily living in a place to escape abuse, you can go to the court of your temporary home. Your new address will be kept confidential by the court upon your request. If you move while the case is pending, you may ask the court to transfer the case to the court most convenient to your new home.

### Step Two - Get a PFA Complaint Form

The clerk of the court will give you the form. Simply put down (as clearly as possible) what happened to you. You should include the date, the time, the location, and the important facts about the abuse. You will have to swear that what you have written is true. Keep a copy of this complaint.

### Step Three - Temporary Order

If you ask for emergency orders, the clerk will take the papers to a judge. If you see the judge, just tell him/her as simply and honestly as possible what happened to you and why you are in danger. If the judge finds that you are in danger, he/she may immediately issue protective orders. A judge is able to order a Temporary Order at this time, and the person who is accused of abusing you will not have prior notice of your complaint or of this emergency hearing. Immediate and present danger of abuse to yourself or your minor

child constitutes good cause so that the person accused of the abuse does not have to have prior notification of the hearing. You should get a copy of the order from the clerk of court and keep it with you at all times.

### Step Three - Service

The court orders the appropriate law enforcement agencies to serve the abuser personally with the order. When the person is served, he/she will also receive a copy of the complaint and a summons. There is no charge for this service. You must tell the law enforcement agency exactly where he/she can find your abuser. If your abuser does not get notice of these papers, your protective orders are not effective. You can call the law enforcement agency involved to find out if notice has been served.

### Step Four - The Full Hearing

A full hearing will be scheduled on the complaint within 21 days of your emergency order. At the hearing, you will have to testify to the judge about what happened and why you want the protection order. If you have a history of being abused by your abuser, or if your abuser has abused any other member of your family, tell the judge. If minor children are in your household and you are seeking support from the abuser, you will have to provide the court with financial information. In the papers which are served upon your abuser, he/she will be told of the hearing date. At the full hearing, both parties have the opportunity to present evidence. It is at this hearing that, if a court finds that the abuser has committed the abuse, a Protection Order may be issued which could last for up to two years.

## Also Tell the Judge

- if you have children: whether or not you wish to have them with you, and if you are not married to your abuser, whether or not he/she is their parent;
- if you own joint property with your abuser (including your residence or automobile): and exactly what you want and need for the children and yourself;
- if you had financial losses because of the attack: exactly what and how much they were; and
- if you need child support or support for yourself.

Bring witnesses, medical records, police records, and other official documents to the hearing. The judge will base a decision on all the facts presented.

## Final Protection Order

This court order extending the temporary or emergency PFA may also:

- grant you temporary custody of the children and ordering your abuser to pay you support monies for them;
- grant you use of any jointly owned property including your residence, household furniture and your car, as well as possession of your pet;
- order your abuser to pay you for any out-of-pocket expenses you incurred as a result of the attack, such as hospital or doctor bills, lost wages, taxi fares or baby-sitting charges, moving or shelter expenses, attorney fees; and
- recommend that your abuser attend counseling.

These orders may be effective for up to two years.

## Making a Criminal Complaint

In addition to getting Protection Orders, you may also ask the police to help you and to charge your abuser with a crime.

If the police have good cause to believe that you have been assaulted recently, they may immediately arrest your abuser, and initiate criminal charges against him/her.

Once the complaint is filed, the person charged will either be arrested or summoned to court. Because of delays in court dockets and because most people are released from custody soon after their arrest, **do not expect your abuser to be confined to jail before the trial.** If arrested, your abuser will likely be ordered, as a condition of bail, to have no contact with you before the trial.

Once you have made a criminal complaint, the District Attorney decides whether to bring the charges against your abuser. It is no longer your complaint and you cannot withdraw it. You may be subpoenaed to testify.

In order to prosecute your abuser, you may be asked to testify under oath in open court about what happened during the particular incident you complained about. In court you will not be allowed to talk about any other incidents of abuse. However, **if you have been threatened or abused at other times by your abuser, be sure to tell the police or the prosecutor before the trial** about those incidents.

## RESOURCES

### Domestic Violence Hotline

1-866-83-4HELP

1-866-834-4357

to connect with local family violence prevention projects

## Maine Coalition to End Domestic Violence

[www.mcedv.org](http://www.mcedv.org)

lists local projects  
with contact information

## Pine Tree Legal Assistance

[www.ptla.org](http://www.ptla.org)

information about  
protection orders, court forms,  
and legal assistance

Augusta - 623-7777 and 622-4731

Bangor - 942-8241

Lewiston - 784-1558

Machias - 255-8656

Portland - 774-8211

Presque Isle - 764-4349

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Lawyer Referral & Information Service

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The Right Call for the Right Lawyer

1-800-860-1460

