

1 SENATE BILL NO. 411

2 INTRODUCED BY R. LAIBLE

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ELIGIBILITY FOR ORDERS OF PROTECTION;
5 PROVIDING THAT A VICTIM OF ASSAULT, AGGRAVATED ASSAULT, OR ASSAULT ON A MINOR IS
6 ELIGIBLE FOR AN ORDER OF PROTECTION REGARDLESS OF THE INDIVIDUAL'S RELATIONSHIP TO THE
7 OFFENDER; AMENDING SECTION 40-15-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 40-15-102, MCA, is amended to read:12 **"40-15-102. Eligibility for order of protection.** (1) A person may file a petition for an order of protection

13 if:

14 (a) the petitioner is in reasonable apprehension of bodily injury by the petitioner's partner or family
15 member as defined in 45-5-206; or

16 (b) the petitioner is a victim of one of the following offenses committed by a partner or family member:

17 (i) assault as defined in 45-5-201;

18 (ii) aggravated assault as defined in 45-5-202;

19 (iii) intimidation as defined in 45-5-203;

20 (iv) partner or family member assault as defined in 45-5-206;

21 (v) criminal endangerment as defined in 45-5-207;

22 (vi) negligent endangerment as defined in 45-5-208;

23 (vii) assault on a minor as defined in 45-5-212;

24 (viii) assault with a weapon as defined in 45-5-213;

25 (ix) unlawful restraint as defined in 45-5-301;

26 (x) kidnapping as defined in 45-5-302;

27 (xi) aggravated kidnapping as defined in 45-5-303; or

28 (xii) arson as defined in 45-6-103.

29 (2) The following individuals are eligible to file a petition for an order of protection against the offender

30 regardless of the individual's relationship to the offender:

1 (a) a victim of assault as defined in 45-5-201, aggravated assault as defined in 45-5-202, assault on a
2 minor as defined in 45-5-212, stalking as defined in 45-5-220, incest as defined in 45-5-507, sexual assault as
3 defined in 45-5-502, or sexual intercourse without consent as defined in 45-5-503; or

4 (b) a partner or family member of a victim of deliberate homicide as defined in 45-5-102 or mitigated
5 deliberate homicide as defined in 45-5-103.

6 (3) A parent, guardian ad litem, or other representative of the petitioner may file a petition for an order
7 of protection on behalf of a minor petitioner against the petitioner's abuser. At its discretion, a court may appoint
8 a guardian ad litem for a minor petitioner.

9 (4) A guardian must be appointed for a minor respondent when required by Rule 17(c), Montana Rules
10 of Civil Procedure, or by 25-31-602. An order of protection is effective against a respondent regardless of the
11 respondent's age.

12 (5) A petitioner is eligible for an order of protection whether or not:

13 (a) the petitioner reports the abuse to law enforcement;

14 (b) charges are filed; or

15 (c) the petitioner participates in a criminal prosecution.

16 (6) If a petitioner is otherwise entitled to an order of protection, the length of time between the abusive
17 incident and the petitioner's application for an order of protection is irrelevant."

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19 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

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