

SENATE BILL NO. 411
INTRODUCED BY R. LAIBLE

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

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

Section 1. Section 40-15-102, MCA, is amended to read:

"40-15-102. Eligibility for order of protection. (1) A person may file a petition for an order of protection if:

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

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

- (i) assault as defined in 45-5-201;
- (ii) aggravated assault as defined in 45-5-202;
- (iii) intimidation as defined in 45-5-203;
- (iv) partner or family member assault as defined in 45-5-206;
- (v) criminal endangerment as defined in 45-5-207;
- (vi) negligent endangerment as defined in 45-5-208;
- (vii) assault on a minor as defined in 45-5-212;
- (viii) assault with a weapon as defined in 45-5-213;
- (ix) unlawful restraint as defined in 45-5-301;
- (x) kidnapping as defined in 45-5-302;
- (xi) aggravated kidnapping as defined in 45-5-303; or
- (xii) arson as defined in 45-6-103.

(2) The following individuals are eligible to file a petition for an order of protection against the offender regardless of the individual's relationship to the offender:

- (a) a victim of assault as defined in 45-5-201, aggravated assault as defined in 45-5-202, assault on a

minor as defined in 45-5-212, stalking as defined in 45-5-220, incest as defined in 45-5-507, sexual assault as defined in 45-5-502, or sexual intercourse without consent as defined in 45-5-503; or

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

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

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

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

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

(b) charges are filed; or

(c) the petitioner participates in a criminal prosecution.

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

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

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