

## ORDERS OF PROTECTION AND CRIMINAL NO CONTACT ORDERS

### LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

**Legislation can be complex, and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.**

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### Background Materials and Research

**Topic Summary:** Two types of orders of protection are established in Title 40, chapter 15, part 2, which creates both temporary and permanent orders. The purpose of the laws are to: "to promote the safety and protection of all victims of partner and family member assault, victims of sexual assault, and victims of stalking." [Section 40-15-102, MCA](#), sets out the eligibility requirements to petition and receive an order of protection. Any lower court can issue an order of protection. Although issuing an order of protection is a civil matter, violation of one can result in criminal charges.

An order of protection is not the same as a no contact order issued by a judge as provided in [section 45-5-209, MCA](#). A non contact order can be issued in specific criminal cases and ends when the criminal case is resolved.

A useful summary of the differences between these types of orders is provided by the Montana Legal Services Association's [Ten Things to Know About a Criminal No Contact Order](#).

#### Legislative Services Division Materials:

#### Other Materials:

[Domestic Violence -- Protective Orders](#), Montana Judicial Branch

[Orders of Protection](#), Montana Department of Justice

[Orders of Protection Frequently Asked Questions](#), Montana Legal Services Association

[Ten Things to Know About A Criminal No Contact Order](#) -- Montana Legal Services Association

## Introduced Legislation

\*Chapter number assigned means bill was passed and approved.

### 2019

[House Bill No. 336](#) -- (H) Tabled in Committee -- AN ACT REVISING LAWS ON TEMPORARY ORDERS FOR MAINTENANCE OR SUPPORT, TEMPORARY ORDERS FOR RELIEF, AND TEMPORARY AUTOMATIC DOMESTIC RELATIONS ORDERS IN DISSOLUTION OF MARRIAGE PROCEEDINGS; AMENDING SECTIONS 3-10-301, 19-2-801, 27-19-201, 27-19-316, 40-4-105, 40-4-109, 40-4-121, AND 45-5-626, MCA; REPEALING SECTIONS 40-4-122, 40-4-123, 40-4-124, AND 40-4-125, MCA; AND PROVIDING AN EFFECTIVE DATE.

[House Bill No. 718](#) -- (H) Tabled in Committee -- AN ACT REVISING PROTECTION ORDER LAWS; PROVIDING A PROCEDURE FOR OBTAINING AN EXTREME RISK ORDER OF PROTECTION AND EX PARTE EXTREME RISK ORDER OF PROTECTION; PROVIDING DEFINITIONS; PROVIDING THAT FIREARMS IN THE POSSESSION OF A PERSON AGAINST WHOM AN EXTREME RISK PROTECTIVE ORDER IS ISSUED MUST BE SURRENDERED AND A PERMIT FOR CARRYING A CONCEALED WEAPON MUST BE TERMINATED; PROVIDING PENALTIES; PROVIDING CIRCUMSTANCES IN WHICH FIREARMS ARE RETURNED; PROVIDING FOR DEVELOPMENT OF EDUCATIONAL MATERIALS; AND PROVIDING REPORTING REQUIREMENTS.

[Senate Bill No. 86](#) -- (S) Died in Standing Committee -- AN ACT REVISING LAWS REGARDING TEMPORARY ORDERS OF PROTECTION; REQUIRING THAT A COURT NOTIFY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES WHEN THE PETITIONER FOR A TEMPORARY ORDER OF PROTECTION IS A MINOR AND THE RESPONDENT IS A PARENT, GUARDIAN, OR OTHER PERSON HAVING PHYSICAL OR LEGAL CUSTODY OF THE MINOR; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO PROVIDE VOLUNTARY OR EMERGENCY PROTECTIVE SERVICES TO THE MINOR FOR A LIMITED DURATION IF A TEMPORARY ORDER OF PROTECTION IS ISSUED; AND AMENDING SECTION 40-15-201, MCA.

[Senate Bill No. 95](#) -- (S) Died in Standing Committee -- AN ACT REVISING LAWS RELATED TO DOMESTIC VIOLENCE AND FIREARMS; PROVIDING THAT WHEN ISSUING A TEMPORARY RESTRAINING ORDER A JUDGE MAY PROHIBIT THE RESPONDENT FROM POSSESSING OR USING A FIREARM; PROHIBITING OFFENDERS CONVICTED OF DOMESTIC VIOLENCE FROM POSSESSING FIREARMS; AMENDING SECTIONS 40-15-201 AND 45-8-313, MCA; AND PROVIDING AN APPLICABILITY DATE.

[Senate Bill No. 114](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS RELATED TO DOMESTIC VIOLENCE, INCLUDING STALKING AND ORDERS OF PROTECTION; PROVIDING DEFINITIONS; PROVIDING PENALTIES; PROVIDING A LIST OF VICTIMS WHO MAY PETITION FOR AN ORDER OF PROTECTION; AMENDING SECTIONS 40-15-102 AND 45-5-220, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

### 2017

[Senate Bill No. 153](#) -- Chapter Number Assigned -- AN ACT CREATING THE OFFENSE OF STRANGULATION OF A PARTNER OR FAMILY MEMBER; AMENDING SECTIONS 40-15-102, 40-4-219, 41-3-301, 44-4-311, 45-5-206,

45-5-209, 46-1-502, 46-6-311, 46-9-108, 46-9-302, 46-16-226, 46-18-219, AND 46-23-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

**2015**

[Senate Bill No. 318](#) -- Chapter Number Assigned -- AN ACT REVISING LAWS RELATED TO NO CONTACT ORDERS; PROVIDING THAT A NO CONTACT ORDER MAY BE ISSUED FOR AGGRAVATED ASSAULT OR ASSAULT WITH A WEAPON COMMITTED AGAINST A PARTNER OR FAMILY MEMBER; PROVIDING THAT A PERSON MAY NOT BE RELEASED ON BAIL WITHOUT APPEARING BEFORE A JUDGE WHEN THE PERSON IS CHARGED WITH VIOLATING A NO CONTACT ORDER; AND AMENDING SECTIONS 45-5-209, 46-6-311, AND 46-9-302, MCA.

**2013**

None

**2011**

None

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