

Montana Code Annotated 2019

TITLE 40. FAMILY LAW

CHAPTER 15. PARTNER AND FAMILY MEMBER ASSAULT, SEXUAL ASSAULT, AND STALKING -- VICTIM PROTECTION

Part 1. General Provisions

Eligibility For Order Of Protection

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) strangulation of a partner or family member as defined in **45-5-215**;

(x) unlawful restraint as defined in **45-5-301**;

(xi) kidnapping as defined in **45-5-302**;

(xii) aggravated kidnapping as defined in **45-5-303**; or

(xiii) 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**, sexual intercourse without consent as defined in **45-5-503**, sexual abuse of children as defined in **45-5-625**, or human trafficking as defined in **45-5-701**; 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.

(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.

History: En. Sec. 22, Ch. 350, L. 1995; amd. Sec. 1, Ch. 432, L. 1999; amd. Sec. 5, Ch. 503, L. 2001; amd. Sec. 1, Ch. 465, L. 2007; amd. Sec. 2, Ch. 394, L. 2017; amd. Sec. 1, Ch. 255, L. 2019.

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