

AN ACT REVISING ORDER OF PROTECTION LAWS TO ALLOW A GUARDIAN, CONSERVATOR, OR AGENT TO ACT ON BEHALF OF AN INCAPACITATED ADULT IN PETITIONING FOR AN ORDER OF PROTECTION OR FOR THE SUBSTITUTE ADDRESS PROGRAM; AMENDING SECTIONS 40-15-102 AND 40-15-116, MCA; AND PROVIDING AN 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) 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;

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(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) The following persons may file a petition for an order of protection on behalf of an adult:

(a) a guardian appointed pursuant to Title 72, chapter 5, part 3, on behalf of an incapacitated person;

(b) a conservator appointed pursuant to Title 72, chapter 5, part 4, on behalf of a protected person; or

(c) an agent on behalf of an incapacitated principal. For the purposes of this subsection (4)(c),

"incapacitated" has the same meaning as "incapacitated person" provided in 72-5-101.

(4)(5) 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)(6) 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)(7) 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."



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Section 2. Section 40-15-116, MCA, is amended to read:

"40-15-116. Definitions. As used in 40-15-115 through 40-15-121, the following definitions apply:

(1) "Applicant" means a victim and includes a parent or guardian of a minor or a person described in

40-15-102(4) who acts on behalf of a the victim.

(2) "Department" means the department of justice.

(3) "Participant" means an applicant who has submitted an application pursuant to 40-15-117 that has been approved by the department.

(4) "Partner or family member assault" has the meaning provided in 45-5-206.

(5) "Sexual assault" means sexual assault as defined in 45-5-502, sexual intercourse without consent

as defined in 45-5-503, incest as defined in 45-5-507, or sexual abuse of children as defined in 45-5-625.

(6) "Stalking" has the meaning provided in 45-5-220.

(7) "Victim" means an individual who has been a victim of partner or family member assault, sexual

assault, or stalking or who is otherwise eligible to file a petition for an order of protection under 40-15-102."

Section 3. Effective date. [This act] is effective July 1, 2021.

- END -



I hereby certify that the within bill,

HB 480, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this	day
of	, 2021.

President of the Senate

Signed this	day
of	, 2021.

## HOUSE BILL NO. 480

## INTRODUCED BY B. MERCER

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