

2010

State Law Report Card



Montana

Access to Orders of Protection

In Montana, minors can obtain Orders of Protection (OPs),¹ and courts can issue OPs against minor abusers.² Montana allows people in dating relationships to seek OPs against their abusers;³ however, the law explicitly denies individuals in same sex relationships the right to file for an order of protection against their partners.⁴

Procedure

State law does not specify whether minors can petition for OPs on their own behalf. A parent or guardian ad litem, among others, may petition for an OP on the minor's behalf.⁵ If a minor is able to file on their own behalf, Montana law does not specify whether the parent or guardian of the minor will be notified about the OP.

Definition of Abuse

A judge may issue an OP when the respondent has physically abused, sexually abused, threatened to physically abuse or stalked the petitioner.⁶ The statute fails to explicitly recognize harassment as a form of abuse that qualifies for relief. The statute may recognize other forms of abuse not specifically listed here.

Relief Available

The court may order⁷ the respondent to:

- stay away from the petitioner (including petitioner's school);
- vacate the petitioner's residence;
- provide petitioner exclusive use/possession of property;
- participate in a counseling or batterers' intervention program;
- not possess a gun; and/or
- other relief within the court's discretion.

The statute may allow other forms of relief not specifically listed here and may cover individuals other than the petitioner. The Order of Protection is modifiable.⁸

Minors' Access to Sensitive Services^{9,10}

All minors can consent to:

- Contraceptive services*
- HIV/STI testing and treatment*
- Prenatal care*
- Medical care for child(ren)

*Physicians may inform a minor's parents.

State law requires parental notice for abortion services, but is currently enjoined by court order.

School Response to Dating Violence

Montana law does not provide for a school response to dating violence.

Recommendations for Immediate Policy Change

In order to improve Montana's response to teen dating violence, the following changes are recommended:

- Allow minors to petition for OPs on their own behalf and explicitly describe the procedure for doing so.
- Allow victims of intimate partner harassment to access OPs.
- Allow all minors to access all sensitive services, including adoption, without parental involvement.

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References

¹ MONT. CODE ANN. § 40-15-102(3) (2009).

² *Id.* § 40-15-102(4).

³ *Id.* § 40-15-102(1).

⁴ *Id.* § 45-5-206(1)(b).

⁵ *Id.* § 40-15-102(3).

⁶ *Id.* § 40-15-102(1)-(2).

⁷ *Id.* §§ 40-15-201; 40-15-204.

⁸ *Id.* § 40-15-204(7).

⁹ Guttmacher Institute, An overview of minors' consent law, *State Policies in Brief*, New York: Guttmacher Institute, 2009, http://www.guttmacher.org/statecenter/spibs/spib_OMCL.pdf, accessed December 1, 2009.

¹⁰ Guttmacher Institute, Minors' Access to STI Services, *State Policies in Brief*, New York: Guttmacher Institute, 2009, http://www.guttmacher.org/statecenter/spibs/spib_MASS.pdf, accessed December 1, 2009.

Break the Cycle

Empowering Youth to End
Domestic Violence

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