

# Dover New Hampshire Police Department

## Laws On Restraining Orders and Commonly Used Domestic Violence Laws In N.H.

### Definitions.

Statute text

I. "Abuse" means the occurrence of one or more of the following acts between family or household members or current or former sexual or intimate partners:

- (a) Attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon under any of the circumstances outlined in RSA 631:1, 631:2, or 631:2-a;
- (b) Placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other, as outlined in RSA 631:4;
- (c) Attempting to or engaging in sexual penetration with another under any of the circumstances outlined in RSA 632-A:2;
- (d) Attempting to or committing kidnapping, criminal restraint or false imprisonment under any of the circumstances outlined in RSA 633:1 to 633:3;
- (e) Attempting to or committing destruction of the property of any person eligible for protection from domestic violence under any of the circumstances outlined in RSA 634:1 or 634:2;
- (f) Attempting to or committing an unauthorized entry on the property of a person eligible for protection from domestic violence under any of the circumstances outlined in RSA 635:1 or 635:2.

II. "Family or household member" means:

- (a) Spouses, ex-spouses, persons cohabiting with each other, persons who cohabited with each other but who no longer share the same residence; and
- (b) Parents and other persons related by consanguinity or affinity other than minor children who reside with the defendant.

III. [Repealed.]

IV. "Intimate partners" means

- persons currently or formerly involved in a romantic relationship, whether or not such relationship was ever sexually consummated.

V. "Intimidating," used solely in RSA 173-B:4, I(a)(4) and RSA 173-B:6, means:

- (a) Commission or attempted commission of harassment as defined in RSA 644:4;
- (b) Commission or attempted commission of assault or reckless conduct as defined in RSA 631:1 to 631:3;
- (c) Commission or attempted commission of criminal threatening as defined in RSA 631:4;
- (d) Commission or attempted commission of sexual assault as defined in RSA 632-A:2 to 632-A:4;
- (e) Commission or attempted commission of interference with freedom as defined in RSA 633:1 to 633:4;
- (f) Commission or attempted commission of destruction of property as defined in RSA 634:1 or 634:2;

- (g) Commission or attempted commission of an unauthorized entry as defined in RSA 635:1 or 635:2; or
- (h) Engaging in any other course of conduct with the intention of deliberately physically or emotionally harming or placing in fear a person entitled to protection from domestic violence.

#### **A7 173-B:2. Jurisdiction and Venue.**

Statute text

I. All district courts shall have concurrent jurisdiction with the superior court over all proceedings under this chapter.

II. If the plaintiff has left the residence or household to avoid further abuse, the plaintiff shall have the option to commence proceedings pursuant to RSA 173-B:3 in the county or district where the plaintiff temporarily resides. Proceedings under this chapter may be transferred to another court upon the motion of any party or the court as the interests of justice or the convenience of the parties may require.

#### **A7 173-B:3. Commencement of Proceedings; Hearing.**

Statute text

I. Any person may seek relief pursuant to RSA 173-B:4 by filing a petition in the county or district where the plaintiff or defendant resides alleging abuse by the defendant. Notice of the pendency of the action and of the facts alleged against the defendant shall be given to the defendant, either personally or as provided in paragraph

II. Notice of the whereabouts of the plaintiff shall not be revealed except by order of the court for good cause shown. Any answer by the defendant shall be filed with the court and a copy shall be provided to the plaintiff by the court.

I.

- (a) The minority of the petitioner shall not preclude the court from issuing protective orders against an intimate partner, spouse, or former spouse under this chapter. For purposes of this paragraph only, "intimate partner" shall not include persons related to the petitioner by either consanguinity or affinity
- (b) A minor petitioner need not be accompanied by a parent or guardian to receive relief or services under this chapter.

II. No filing fee or fee for service of process shall be charged for a petition under paragraph I and the plaintiff may proceed without legal counsel. Either a peace officer or the sheriff's department shall serve process under this section. Any proceeding under this chapter shall not preclude any other available civil or criminal remedy.

III. The clerks of the district and superior courts shall supply forms for petitions for relief under this chapter designed to facilitate prose proceedings.

IV. Upon entry of any action in a district court, where the court determines that there is pending in the superior court a cause arising out of the same situation on which the district court action is based, the cause shall be transferred to the superior court to be heard and tried as if originally entered in the superior court, unless the district court determines that the interests of justice or expediency require the district court to exercise jurisdiction. Any transfer to the superior court under this paragraph shall be made as soon as

practicable following entry of the action.

V. The findings of facts shall be final but questions of law may be transferred to the supreme court in the same manner as from the superior court.

VI. The court shall hold a hearing within 30 days of the filing of a petition under this section or within 10 days of service of process upon the defendant, whichever occurs later.

VII. In any proceeding under this chapter, the court shall not be bound by the technical rules of evidence and may admit evidence which it considers relevant and material.

#### **A7 173-B:4. Relief.**

Statute text

I. Upon a showing of abuse of the plaintiff by a preponderance of the evidence, the court shall grant such relief as is necessary to bring about a cessation of abuse, which relief may include:

- (a) Protective orders:
  - (1) Directing the defendant to refrain from abusing or interfering in any way with the person or liberty of the plaintiff.
  - (2) Enjoining the defendant from entering the premises wherein the plaintiff resides unless the defendant exclusively owns or leases and pays for the premises and the defendant has no legal duty to support the plaintiff or minor children on the premises.
  - (3) Enjoining the defendant from contacting the plaintiff at, or entering, plaintiff's place of employment or school.
  - (4) Enjoining the defendant from harassing, intimidating or threatening the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way.
  - (5) Enjoining the defendant from taking, converting or damaging property in which the plaintiff may have a legal or equitable interest.
  
- (b) Other relief:
  - (1) Granting to the plaintiff the exclusive right of use and possession of the household furniture, furnishings and automobile unless the defendant exclusively owns such personal property and the defendant has no legal duty to support the plaintiff or minor children;
  - (2) Awarding temporary custody of the parties' minor children to either party, or, where appropriate to the department of health and human services, provided that:
    - (i) Where custody of the parties' minor children may be appropriate with the department of health and human services, the department of health and human services shall receive actual notice of the hearing 10 days prior to said hearing, provided that, if necessary, said hearing may be continued 10 days to provide the department adequate notice;
    - (ii) The department of health and human services may move at any time to rescind their custody of the parties' minor children;
  - (3) Establishing temporary visitation rights with regard to the parties' minor children. The court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children;
  - (4) Directing the defendant to pay financial support to the plaintiff or minor children

- unless the defendant has no legal duty to support the plaintiff or minor children;
- (5) Directing the abusing party to engage in batterer's treatment or personal counseling. If available, such treatment and counseling program shall focus on alternatives to aggression. The court shall not direct the abused party to engage in joint counseling services with the defendant.
- (6) Ordering the defendant to pay the plaintiff monetary compensation for losses suffered as a direct result of the abuse which may include, but not be limited to, loss of earnings or support, medical and dental expenses, out-of-pocket losses for injuries sustained, moving and shelter expenses, and reasonable attorney's fees.

I-a. Previous reconciliation prior to filing the current action shall not be grounds for denying or terminating a protective order.

II. No order made under this section shall supersede or affect any court order pertaining to the possession of a residence; household furniture; custody of children pursuant to RSA 169-B, 169-C or 169-D; support or custody made under RSA 458; or title to real or personal property.

III. Any order under this section shall be for a fixed period of time not to exceed one year, but may be extended by order of the court upon motion by the plaintiff, showing good cause, with notice to the defendant. A defendant shall have the right to a hearing on the extension of any order under this paragraph to be held within 30 days of the extension. The court shall retain jurisdiction to enforce and collect the financial support obligation which accrued prior to the expiration of the protective order.

IV. Both parties shall be issued written copies of any orders issued by the court and all orders shall bear the following language: "A willful violation of this order is a crime, as well as contempt of court. Violations shall result in arrest and may result in imprisonment." Orders shall clearly state how any party can request a further hearing and how the plaintiff may bring a criminal complaint if there is a violation of any court order.

V. No order issued under this chapter shall be modified other than by the court. Temporary reconciliation's shall not revoke an order.

VI. (a) A copy of each protective order issued under this chapter may be transmitted to the department of safety by computer. An emergency protective order issued telephonically may be transmitted to the department of safety by telephone or facsimile.

(b) The state police shall make information regarding the protective order available to the arresting police department and police and sheriff departments statewide.

(c) The issuing court shall notify the division of state police upon expiration or termination of a protective order.

(d) Notwithstanding any other provision of law, the department of safety, its employees and agents, and law enforcement officials shall not be held criminally or civilly liable under this paragraph, provided they are acting in good faith and without gross negligence, and within the scope of their duties and authority.

#### **A7 173-B:5. Guardian Ad Litem.**

Statute text

In all proceedings under this chapter the court may appoint a guardian ad litem to represent the interests of the children of either or both

parties. Said guardian ad litem may continue to serve after the final disposition of the case.

#### **A7 173-B:6. Temporary Relief.**

Statute text

Upon a showing of an immediate and present danger of abuse, the court may enter temporary orders to protect the plaintiff with or without actual notice to defendant. The court may issue such temporary orders by telephone or facsimile. Such telephonically issued orders shall be made by a district or superior court judge to a law enforcement officer, and shall be valid in any jurisdiction in the state and shall be effective until the close of the next regular court business day. Such order shall be returnable to the district court where the plaintiff resides or has led to, unless otherwise ordered by the issuing justice. If non-telephonic temporary orders are made ex parte, the party against whom such relief is issued may file a written request with the clerk of the court and request a hearing thereon. Such hearing shall be held no later than 5 business days after the request is received by the clerk.

Such hearings may constitute the final hearing described in RSA 173-B:3,

IV. Such temporary relief may include:

- I. As a protective order, directing the defendant to refrain from abusing or interfering in any way with the person or liberty of the plaintiff;
- II. As a protective order, restraining the defendant from entering the residence where the plaintiff resides except when the defendant is accompanied by a peace officer and wishes to enter for the sole purpose of retrieving his personal property;
- III. As a protective order, awarding custody of minor children to either party or, upon actual notice, to the department of health and human services when in the best interest of a child;
- IV. As a protective order, restraining the defendant from contacting the plaintiff at, or entering, plaintiff's place of employment or school;
- V. As a protective order, restraining the defendant from harassing, intimidating or threatening the plaintiff, plaintiff's relatives, regardless of their place of residence, or plaintiff's household members in any way;
- VI. As a protective order, restraining the defendant from taking, converting or damaging property in which the plaintiff may have a legal or equitable interest; and
- VII. As a protective order, directing the defendant to temporarily relinquish to the peace officer any or all deadly weapons, as defined in RSA 625:11, V, in the control, ownership or possession of the defendant which may have been used, or threatened to be used, or could be used, in an incident of abuse against the plaintiff or any member of plaintiff's household. If a court issues a protective order pursuant to this paragraph, it may subsequently issue a search warrant authorizing the peace officer to seize said deadly weapon or weapons, if there is probable cause to believe that such deadly weapon or weapons are kept at the residence of the defendant, and if the court has reason to believe that all such deadly weapons have not been relinquished by the defendant. Such protective order may authorize the peace officer to enter the defendant's residence for the limited purpose of serving the order and, when appropriate, for the purpose of locating and seizing the deadly weapon or weapons named in the warrant.

#### **A7 173-B:7. Notification.**

Statute text

I. A copy of any order made under this chapter which prohibits any person from abusing or interfering with

the person or liberty of another or which affects either party's access to or possession of either party's residence shall be transmitted forthwith to the local law enforcement agency having jurisdiction to enforce said order. Orders shall be promptly served on the defendant by a peace officer. Law enforcement agencies shall establish procedures whereby a peace officer at the scene of an alleged violation of such an order may be informed of the existence and terms of such order.

II. Any court-ordered changes or modifications of the order shall be effective upon entry of such changes or modifications, and shall be mailed or otherwise provided to the appropriate local law enforcement agency within 24 hours of the entry of such changes or modifications.

#### **A7 173-B:8. Violation of Protective Orders; Penalty.**

Statute text

I.

- (a) Irrespective of whether the plaintiff chooses to pursue the contempt remedies in paragraph II, when a defendant violates either a temporary or permanent protective order issued or enforced under this chapter by committing assault, criminal trespass, criminal mischief, stalking, violation of a protective order issued pursuant to RSA 173-B:8, III, or another criminal act, peace officers shall arrest the defendant, detain the defendant pursuant to RSA 594:19-a and refer the defendant for prosecution. Such arrests may be made within 6 hours without a warrant upon probable cause whether or not the violation is committed in the presence of a peace officer.
- (b) Subsequent to an arrest, the peace officer shall seize any deadly weapons in the control, ownership or possession of the defendant which may have been used or threatened to be used, during the violation of the protective order. The law enforcement agency shall maintain possession of the weapons until the court issues an order directing that the weapons be relinquished and specifying the person to whom the weapons shall be relinquished.

II.

- (a) Upon notice to the court by the plaintiff, someone designated by the plaintiff, or any peace officer alleging that the defendant has violated any protective order issued under this chapter, the court shall issue a summons to the defendant, requiring the defendant to appear within 14 days for a hearing on whether he should be found in civil or criminal contempt of court and punished therefor. Any such hearing may be held by the court in any county or district in which the plaintiff or defendant temporarily or permanently resides at the time of the alleged violation.
- (b) A hearing on a charge or allegation of criminal contempt shall not preclude a hearing on other criminal charges underlying the contempt, nor shall a hearing on other criminal charges preclude a hearing on a charge of criminal contempt.

III. A person is guilty of a misdemeanor if such person knowingly violates a protective order issued under RSA 173-B or RSA 458:16, III or any similar protective order issued by any other state, territory, or possession of the United States, the commonwealth of Puerto Rico, or the District of Columbia.

#### **A7 173-B:9. Protection by Peace Officers.**

Statute text

Whenever any peace officer has reason to believe that a person has been subject to abuse as defined in RSA 173-B:1, I, that officer shall use all means within reason to prevent further abuse. Pursuant to RSA 594:10 an arrest for abuse may be made without a warrant upon probable cause whether or not the abuse is

committed in the presence of the peace officer. When the peace officer has probable cause to believe that the persons are committing or have committed abuse against each other, the officer need not arrest both persons, but should arrest the person whom the officer believes to be the primary physical aggressor. In determining who is the primary physical aggressor, an officer shall consider the intent of this chapter to protect victims of domestic violence, the relative degree of injury or fear inflicted on the persons involved and any history of domestic abuse between these persons, if that history can reasonably be ascertained by the officer.

**A7 173-B:10. Notice to Victim.**

Statute text

I. Notwithstanding the peace officer's obligations in RSA 173-B:8, all peace officers shall give victims of abuse immediate and adequate notice of their right to go to the district or superior court of their county to file a petition asking for protective orders against the abusive person and to sign a criminal complaint at the police station.

II. It shall be the responsibility of the clerk of the court to advise victims that they may request that the judge issue an order:

- (a) Restraining the abusive person from abusing the victim;
- (b) Directing the abusive person to leave the household;
- (c) Giving the victim custody of any minor children;
- (d) Directing the abusive person to support the victim and any minor children if the abusive person has a legal responsibility to support either or both;
- (e) Restraining the abusive person from harassing, intimidating or threatening the victim or victim's relatives or household members in any way;
- (f) Restraining the abusive person from taking, converting or damaging property in which the plaintiff may have a legal or equitable interest;
- (g) Directing the abusive person to temporarily relinquish to the peace officer any deadly weapons in the control, ownership or possession of the defendant which may have been used, or been threatened to be used, in an incident of abuse against the victim or any member of the victim's household; or
- (h) Directing the abusive person to pay the victim monetary compensation for losses suffered as a result of the abuse which may include, but may not be limited to, loss of earnings or support, medical or dental expenses, out-of-pocket losses for injuries sustained, moving and shelter expenses, and reasonable attorney's fees.

**A7 173-B:11. Emergency Care; Limitation of Liability.**

Statute text

Any act or omission of any peace officer rendering emergency care or assistance to a victim of domestic violence, including but not limited to transportation to medical facilities, shall not impose civil liability upon the peace officer or his supervisors or employer if the care or assistance is rendered in good faith unless the act or omission is a result of gross negligence or willful misconduct.

**A7 173-B:11-a. Orders Enforceable.**

Statute text

I. Any protective order issued under this chapter shall be effective throughout the state, in all districts and

counties.

II. The superior court, in any action determining the obligation of the obligor to support the obligee or the parties' minor children, including but not limited to actions for divorce, pursuant to RSA 458; custody, pursuant to RSA 458; paternity, pursuant to RSA 168-A; child support, pursuant to RSA 161-B, RSA 161-C and RSA 458; reimbursement of public assistance, pursuant to RSA 161-C; and the uniform reciprocal enforcement of support act, pursuant to RSA 546; shall take judicial notice of any support obligation established pursuant to RSA 173-B:4, I(b)(4), upon the filing of a certified copy of the district court order in the superior court by:

- (a) Either party to the domestic violence proceeding;
- (b) The department of health and human services; or
- (c) Any other agency or person legally entitled to enforce the obligation of support for the minor children.

III. Any superior court order for financial support shall include enforcement of any duly filed district court order from the date of filing forward, and shall include enforcement of any arrears which have been:

- (a) Reduced to judgment by the district court;
- (b) Documented by the department of health and human services pursuant to an order to make support payable through the department; or
- (c) Documented by the obligee in a notarized statement, provided that the obligor shall have 30 days to object and request a hearing on the issue of arrears.

#### **A7 173-B:11-b. Foreign Protective Orders Enforceable.**

Statute text

I. Any protective order issued by any other state, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia shall be given full faith and credit throughout the state, in all districts and counties, provided that such an order is similar to a protective order issued under RSA 173-B:4, I(a)(1)-(4) or an order issued under RSA 458:16, I, II or III.

II. A foreign protective order as defined in paragraph I shall be enforceable in this state as long as it is in effect in the issuing state.

III. A person entitled to protection under a foreign protective order as defined in paragraph I may file such order in any district court by filing with the court a certified copy of the order. Such person shall swear under oath in an affidavit to the best of such person's knowledge that the order is presently in effect as written. Upon inquiry by a law enforcement agency, the clerk of the district court shall make a copy of the foreign protective order available.

IV. A peace officer may rely upon a copy of any protective order issued Under this chapter, RSA 458, or a foreign protective order as defined in this section, which has been provided to the peace officer by any source.

V. Law enforcement personnel may rely on the statement of the person protected by the order that the order remains in effect.

#### **A7 631:1. First Degree Assault.**

Statute text

I. A person is guilty of a class A felony if he:

- (a) Purposely causes serious bodily injury to another; or
- (b) Purposely or knowingly causes bodily injury to another by means of a deadly weapon, except that if the deadly weapon is a firearm, he shall be sentenced in accordance with RSA 651:2, II-g; or
- (c) Purposely or knowingly causes injury to another resulting in miscarriage or stillbirth; or
- (d) Knowingly or recklessly causes serious bodily injury to a person under 13 years of age.

II. In this section:

- (a) "Miscarriage" means the interruption of the normal development of the fetus other than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of a fetus; and
- (b) "Stillbirth" means the death of a fetus prior to complete expulsion or extraction and not an induced abortion.

**A7 631:2. Second Degree Assault.**

Statute text

I. A person is guilty of a class B felony if he:

- (a) Knowingly or recklessly causes serious bodily injury to another; or
- (b) Recklessly causes bodily injury to another by means of a deadly weapon, except that if the deadly weapon is a firearm, he shall be sentenced in accordance with RSA 651:2, II-g; or
- (c) Recklessly causes bodily injury to another under circumstances manifesting extreme indifference to the value of human life; or
- (d) Purposely or knowingly causes bodily injury to a child under 13 years of age; or
- (e) Recklessly or negligently causes injury to another resulting in miscarriage or stillbirth.

II. In this section:

- (a) "Miscarriage" means the interruption of the normal development of the fetus other than by a live birth and not an induced abortion, resulting in the complete expulsion or extraction of a fetus; and
- (b) "Stillbirth" means the death of a fetus prior to complete expulsion or extraction and not an induced abortion.

**A7 631:2-a. Simple Assault.**

Statute text

I. A person is guilty of simple assault if he:

- (a) Purposely or knowingly causes bodily injury or unprivileged physical contact to another; or
- (b) Recklessly causes bodily injury to another; or

- (c) Negligently causes bodily injury to another by means of a deadly weapon.

II. Simple assault is a misdemeanor unless committed in a fight entered into by mutual consent, in which case it is a violation.

**A7 631:3. Reckless Conduct.**

Statute text

I. A person is guilty of reckless conduct if he recklessly engages in conduct which places or may place another in danger of serious bodily injury.

II. Reckless conduct is a class B felony if the person uses a deadly weapon as defined in RSA 625:11, V. All other reckless conduct is a misdemeanor.

**A7 631:4. Criminal Threatening.**

Statute text

I. A person is guilty of criminal threatening when:

- (a) By physical conduct, the person purposely places or attempts to place another in fear of imminent bodily injury or physical contact; or
- (b) The person places any object or graffiti on the property of another with a purpose to coerce or terrorize any person; or
- (c) The person threatens to commit any crime against the property of another with a purpose to coerce or terrorize any person; or
- (d) The person threatens to commit any crime against the person of another with a purpose to terrorize any person; or
- (e) The person threatens to commit any crime of violence with a purpose to cause evacuation of a building, place of assembly, facility of public transportation or otherwise to cause serious public inconvenience, or in reckless disregard of causing such fear, terror or inconvenience.

II.

- (a) Criminal threatening is a class B felony if the person:
  - (1) Violates the provisions of subparagraph I(e); or
  - (2) Uses a deadly weapon as defined in RSA 625:11, V in the violation of the provisions of subparagraph I(a), I(b), I(c), or I(d).
- (b) All other criminal threatening is a misdemeanor.

III. As used in this section, "property" has the same meaning as in RSA 637:2, I; "property of another" has the same meaning as in RSA 637:2,

IV.

**A7 633:3. False Imprisonment.**

Statute text

A person is guilty of a misdemeanor if he knowingly confines another unlawfully, as defined in RSA 633:2,

so as to interfere substantially with his physical movement.

### **A7 633:3-a. Stalking.**

Statute text

I. As used in this section:

- (a) "Intimidates" means to engage in a course of conduct directed at a specific person with the purpose of inflicting substantial emotional distress and which results in substantial emotional distress in the victim.
- (b) "Course of conduct" means a pattern of conduct composed of acts on more than one occasion over a period of time, however short, evidencing a continuity of purpose. "Course of conduct" shall not mean any constitutionally protected activity.
- (c) "Explicit or implicit threat" means an act made with the intent to cause the person who is the target of the act to reasonably fear for his safety or which would cause a reasonable person to fear for his safety. The threat must be to cause death or bodily injury to a person.
- (d) "Stalk" means any of the following:
  - (1) To follow another person from place to place on more than one occasion for no legitimate purpose with the intent to place such person in fear for his personal safety; or
  - (2) To appear on more than one occasion for no legitimate purpose in proximity to the residence, place of employment, or other place where another person is found with the intent to place such person in fear for his personal safety; or
  - (3) To follow another person from place to place on more than one occasion for no legitimate purpose under circumstances that would cause a reasonable person to fear for his personal safety; or
  - (4) To appear on more than one occasion for no legitimate purpose in proximity to the residence, place of employment, or other place where another person is found under circumstances that would cause a reasonable person to fear for his personal safety; or
  - (5) After being served with, or otherwise provided notice of, a protective order pursuant to RSA 173-B or RSA 458:16 or an order that prohibits the person from having contact with specific individuals pursuant to RSA 597:2, on a single occasion and in violation of the provisions of such order to:
    - (A) Follow another person from place to place; or
    - (B) Appear in proximity to any other place described in the protective order or bail order.

II. A person is guilty of stalking if such person:

- (a) Purposely or knowingly stalks another as defined in RSA 633:3-a, I(d)(1) or (2);
- (b) Purposely, knowingly or recklessly stalks another as defined in RSA 633:3-a, I(d)(3), (4) or (5); or
- (c) Purposely or knowingly intimidates another and makes an explicit or implicit threat against another.

III. For purposes of this section, a person who engages in acts which would constitute stalking after having been advised by a law enforcement officer as defined in RSA 630:1, II that his acts were in violation of this chapter, shall be presumed to have acted knowingly.

IV. In any complaint, information, or indictment brought for the enforcement of any provision of this statute, it shall not be necessary to negate any exception, excuse, proviso, or exemption contained herein

and the burden of proof of any exception, excuse, proviso, or exemption shall be upon the defendant.

V. Any law enforcement officer may arrest, without a warrant, any person that the officer has probable cause to believe has violated the provisions of this section when the offense occurred within 6 hours, regardless of whether the crime occurred in the presence of the officer. A law enforcement officer shall arrest a person when he has probable cause to believe a violation of the provisions of this section has occurred within the last 6 hours when the offense involves a violation of a protective order issued pursuant to RSA 173-B or RSA 458:16.

VI.

- (a) Any person convicted of a violation of this section and who has one or more prior stalking convictions in this state or another state when the second or subsequent offense occurs within 7 years following the date of the first or prior offense shall be guilty of a class B felony.
- (b) In all other cases, any person who is convicted of a violation of this section shall be guilty of a class A misdemeanor.

VII. If any provision or application of this section or the application thereof to a person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this section which can be given effect without the invalid provisions or applications, and to this end the provisions of this section are severable.