

State of Maine

March 18, 1974 29D-12
Sent to Commission April 3, 1974.

TITLE D2 SUBSTANTIVE OFFENSES

Chapter 29D Offenses Against Public Administration

Section 1 Obstructing Government Administration (Approved as revised 3-14-74. Amended page 29D-9)

1. A person is guilty of obstructing government administration if he uses force, violence, threat of imminent bodily injury, or engages in any criminal act with the intent to interfere with a public servant performing or purporting to perform an official function.

2. This section shall not apply to

A. refusal by a person to submit to an arrest;

B. escape by a person from official custody, as

defined in section ____.

3. Obstructing government administration is a class D crime.

Section 2. Assault on an Officer (Approved as revised 3-14-74.
Revised page 29D-9)

Section 3. Hindering Apprehension or Prosecution

(Approved as amended 3--174)

(Amended page 29D-11)

Section 4. Compounding (Approved as amended 3-1-74.
Amended page 29D-11)

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TITLE D2 SUBSTANTIVE OFFENSES

Chapter 29F Prostitution and Public Indecency

Section 1 Definitions (Approved as revised 3-14-74.)
(Original page 29F-1)

As used in this chapter,

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in sexual intercourse or a sexual act, as defined in chapter 23, section 1, in return for a pecuniary benefit to be received by the person engaging in prostitution or a third person.

2. "Promotes prostitution" means

A. causing or aiding another to commit or engage in prostitution, other than as a patron; or

B. procuring at any place or, in a public place, soliciting patrons for prostitution; or

C. providing persons for purposes of prostitution; or

D. leasing or otherwise permitting a place controlled by the defendant, alone or in association with others, to be regularly used for prostitution; or

E. owning, controlling, managing, supervising, or otherwise operating, alone or in association with others, a house of prostitution or a prostitution business; or

F. transporting a person into or within the state with the intent that such other person engage in prostitution; or

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G. accepting or receiving, or agreeing to accept or receive, a pecuniary benefit pursuant to an agreement or understanding with any other person whereby he participates or is to participate in the proceeds of prostitution.

Section 2. Aggravated Promotion of Prostitution (Approved as revised 3-14-74. Original page 29F-4.)

1. A person is guilty of aggravated promotion of prostitution if he knowingly

A. promotes prostitution by compelling a person to enter into, engage in, or remain in prostitution; or

B. promotes prostitution of a person less than 18 years old.

2. As used in this section "compelling" includes but is not limited to

A. the use of a drug or intoxicating substance to render a person incapable of controlling his conduct or appreciating its nature; and

B. withholding or threatening to withhold a narcotic drug from a drug dependent person. A "drug dependent person" is one who is using narcotic drugs and who is in a state of psychic or physical dependence or both, arising from the use of the drug on a continuing basis.

3. Aggravated promotion of prostitution is a class C crime.

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Section 3. Promotion of Prostitution (Approved as revised
3-14-74. Original page 29F-5.)

1. A person is guilty of promotion of prostitution if he knowingly promotes prostitution.

2. Promoting prostitution is a class D crime.

Section 4. Public Indecency (Approved as amended 3-14-74.
Original page 29F-5.)

1. A person is guilty of public indecency if, in a public place

A. he engages in sexual intercourse or a sexual act, as defined in chapter 23, section 1; or

B. he knowingly exposes his genitals

(i) to a person under the age of 12; or

(ii) under circumstances which, in fact, are likely to cause affront or alarm.

2. Public indecency is a class D crime.

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April 2, 1974 22-6
April 11, 1974 meeting

TITLE D2 SUBSTANTIVE OFFENSES

Chapter 22 Offenses Against the Person

Section 10 Endangering Human Life

1. A person is guilty of endangering human life if he knowingly violates any federal, state, or local statute or regulation whose primary purpose is to protect persons employed in an organization, or consumers of the organization's products, from physical harm.
2. The penalty for violation of this section shall be in addition to, and not in place of, any penalty otherwise authorized by law for violation of the statute or regulation.
3. As used in this section "physical harm" includes, but is not limited to, the physical harm caused by prolonged exposure to, or use of, any substance.
4. It is no defense to a prosecution under this section that compliance with the statute or regulation would have caused economic hardship in any degree.
5. Endangering human life is a class B crime.

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Source: I do not know of any counterpart to this section.

Current Maine Law: All of the Maine statutes relating to adulterated products and prevention of occupational diseases are in point. This section also relies on federal regulations, in force in Maine of course, such as those noted in the enclosed report from the Massachusetts General Hospital News, relating to levels of beryllium.

The Draft: This section is a first cousin to chapter 29B, section 2 Robbery, which similarly relates to threats of injury in order to achieve economic gain. The potential harm involved in this present section is, however, far greater and when the sentencing structure is reviewed later this Spring, it will be recommended that it be punished more severely.

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TITLE D2 SUBSTANTIVE OFFENSES

Chapter 29F Prostitution and Public Indecency

Section 1 Definitions

Approved 3-14-74, . see page 29F-6.

Section 2. Aggravated Promotion of Prostitution

Approved 3-14-74, see page 29F-7.

Section 3. Promotion of Prostitution

Approved 3-14-74, see page 29F-8.

Section 4. Public Indecency (Approved as amended 4-11-74, from page 29F-8.)

1. A person is guilty of public indecency if:

A. in a public place

(i) he engages in sexual intercourse or a sexual act, as defined in chapter 23, section 1; or

(ii) he knowingly exposes his genitals to a person under the age of 12, or under circumstances which, in fact, are likely to cause affront or alarm; or

B. in a private place, he exposes his genitals with the intention that he be seen from a public place or from another private place.

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2. For purposes of this section "public place" includes, but is not limited to, motor vehicles.

3. Public indecency is a class D crime.

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May 8, 1974 meeting

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Chapter 22 Offenses Against the Person

Section 11 Terrorizing

1. A person is guilty of terrorizing if he communicates to any person a threat to commit a crime of violence dangerous to human life, and the natural and probable consequence of such a threat, whether or not such consequence in fact occurs, is:

A. to place another person in reasonable fear of serious bodily injury; or

B. to cause evacuation of a building, place of assembly or facility of public transport.

2. Terrorizing is a class D crime.

Comment

Source: This section is a modification of the Proposed Criminal Code of Massachusetts, chapter 265, section 9.

Current Maine Law: Title 17, section 503 prohibits giving "a false report, knowing such report to be false, to anyone as to the deposit of any bomb or infernal machine in any place." In addition, section 3701 provides:

Whoever makes, publishes or sends to another any communication, written or oral, containing a threat to injure the person or property or any person shall be punished by a fine of not more than \$500 or, by imprisonment for not more than 5 years, or by both. If the communication is written and is anonymous or signed by any other than the true name of the writer, the punishment shall be a fine of not more than \$1,500 or imprisonment for not more than 10 years, or by both. If any such threat is against the person or property or member of the family of any public official, the punishment shall be imprisonment for not more than 15 years.

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Three opinions of the Supreme Judicial Court shed light on the meaning of section 3701: State v. Sondergaard, 316 A.2d 367 (Me. 1974); State v. Lizotte, 256 A.2d 439 (Me. 1969); and State v. Cashman, 217 A.2d 28 (Me. 1966).

Sondergaard held that to be consistent with First-Fourteenth Amendment protections, section 3701 cannot be used to punish a threat made to destroy property or to injure a person unless there are circumstances alleged which indicate a reasonable likelihood of fear or alarm as a result of the threat. Thus, a threat made that a third person will be killed cannot, without more, amount to a criminal offense. Lizotte held that it need not be shown that the person threatened (there a police officer) was or would have been placed in fear as a result of the threat; it is sufficient if an ordinary person would have so reacted. Cashman adds that the threat need not necessarily promise harm at the hands of the defendant, but may be a threat that some unnamed person will harm the victim.

The Draft: Subsection 1A is consistent with current law, but does not reach threats to property. No actual fear need be shown under this subsection. If there is fear of imminent harm, section 9 of chapter 22, Criminal Threatening, would be applicable.

Subsection 1B goes beyond the reach of section 503 of Title 17 in that this subsection is not restricted to reports that are false. A true description of the actor's intent to blow up a building, loosen the supports on a structure, etc. would be covered by subsection 1B, although apparently not under present statutes.

The Massachusetts draft also includes a third subsection which says: "or otherwise to cause serious public inconvenience, disruption, or alarm." The vagueness of this language has lead me to omit it.

Section 12. Reckless Endangerment

1. A person is guilty of reckless endangerment if he creates a substantial risk of serious bodily injury to another person by acting in disregard of an awareness he has that his conduct will create such a risk.

2. Reckless endangerment is a class D crime.

Comment

Source: This section is a modification of chapter 265, section 10 of the Proposed Criminal Code of Massachusetts.

Current Maine Law: The only statute which appears to deal with the conduct described in this section is Title 29, section 1314 which provides: "No person shall drive any vehicle upon any way or in any other place in such a manner as to endanger any person or property." No criminal penalty is included in this law.

The Draft: This section relates to the person who drops a brick from the roof into a crowded street, as well as to the reckless motor vehicle driver. If luck so dictates and someone is hurt or killed, there would be either an assault under sections 7 or 8 of this chapter, or manslaughter under section 4.