

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 512

H.P. 351

House of Representatives, February 24, 2015

**An Act To Implement Certain Recommendations of the Criminal
Law Advisory Commission Relative to the Maine Criminal Code**

Reported by Representative FOWLE of Vassalboro for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R(t) B. Hunt".

ROBERT B. HUNT
Clerk

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §208**, as amended by PL 2011, c. 640, Pt. B, §2, is further
3 amended to read:

4 **§208. Aggravated assault**

5 **1.** A person is guilty of aggravated assault if ~~he~~ that person intentionally,
6 knowingly, or recklessly causes:

7 A. ~~Serious bodily~~ Bodily injury to another that creates a substantial risk of death or
8 extended convalescence necessary for recovery of physical health. Violation of this
9 paragraph is a Class B crime; ~~or~~

10 A-1. Bodily injury to another that causes serious, permanent disfigurement or loss or
11 substantial impairment of the function of any bodily member or organ. Violation of
12 this paragraph is a Class A crime;

13 B. Bodily injury to another with use of a dangerous weapon. Violation of this
14 paragraph is a Class B crime; or

15 C. Bodily injury to another under circumstances manifesting extreme indifference to
16 the value of human life. Such circumstances include, but are not limited to, the
17 number, location or nature of the injuries, the manner or method inflicted, the
18 observable physical condition of the victim or the use of strangulation. For the
19 purpose of this paragraph, "strangulation" means the intentional impeding of the
20 breathing or circulation of the blood of another person by applying pressure on the
21 person's throat or neck. Violation of this paragraph is a Class B crime.

22 ~~2. Aggravated assault is a Class B crime.~~

23 **Sec. 2. 17-A MRSA §505, sub-§2**, as enacted by PL 1975, c. 499, §1, is repealed
24 and the following enacted in its place:

25 **2.** As used in this section, "public way" means a way, including a sidewalk, owned
26 and maintained by the State, a county or a municipality over which the general public has
27 a right to pass by foot or by vehicle or a way under the control of park commissioners or
28 a body having like powers.

29 **Sec. 3. 17-A MRSA §554**, as amended by PL 2005, c. 373, §§1 and 2, is further
30 amended to read:

31 **§554. Endangering the welfare of a child**

32 **1.** A person is guilty of endangering the welfare of a child if that person:

33 A. Knowingly permits a child under 16 years of age to enter or remain in a house of
34 prostitution. Violation of this paragraph is a Class D crime;

35 B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a
36 child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles,

1 gunpowder, smokeless powder or ammunition for firearms. Violation of this
2 paragraph is a Class D crime;

3 ~~B-1. Being the parent, foster parent, guardian or other person having the care and~~
4 ~~eustody of the child, cruelly treats that child by abuse, neglect or extreme~~
5 ~~punishment;~~

6 B-2. Being a parent, foster parent, guardian or other person responsible for the long-
7 term general care and welfare of a child ~~under 16~~, recklessly fails to take reasonable
8 measures to protect the child from the risk of further bodily injury after knowing:

9 (1) That the child had, in fact, sustained serious bodily injury or bodily injury
10 under circumstances posing a substantial risk of serious bodily injury; and

11 (2) That such bodily injury was, in fact, caused by the unlawful use of physical
12 force by another person;

13 Violation of this paragraph is a Class C crime;

14 B-3. Being the parent, foster parent, guardian or other person having the care and
15 custody of ~~the a~~ child, knowingly deprives the child of necessary health care, with ~~the~~
16 a result that the child is placed in danger of serious harm. Violation of this paragraph
17 is a Class D crime; or

18 C. Otherwise recklessly endangers the health, safety or welfare of ~~a the~~ child ~~under~~
19 ~~16 years of age~~ by violating a duty of care or protection. Violation of this paragraph
20 is a Class D crime.

21 **2.** It is an affirmative defense to prosecution under this section that:

22 A. The defendant was the parent, foster parent, guardian or other similar person
23 responsible for the long-term general care and welfare of ~~a the~~ child under 16 years of
24 age who furnished the child cigarettes, tobacco or a reasonable amount of
25 intoxicating liquor in the actor's home and presence;

26 B. The defendant was a person acting pursuant to authority expressly or impliedly
27 granted in Title 22; or

28 C. The defendant was the parent, foster parent, guardian or an adult approved by the
29 parent, foster parent or guardian who furnished ~~a the~~ child under 16 years of age an
30 air rifle, gunpowder, smokeless powder or ammunition for a firearm for use in a
31 supervised manner.

32 ~~3. Endangering the welfare of a child is a Class D crime, except that a violation of~~
33 ~~subsection 1, paragraph B-2 is a Class C crime.~~

34 **Sec. 4. 17-A MRSA §1201, sub-§1, ¶A-3** is enacted to read:

35 A-3. The court sentences the person to a term of imprisonment followed by a period
36 of supervised release as authorized by chapter 50;

37 **Sec. 5. 17-A MRSA §1206, sub-§7-B**, as enacted by PL 1989, c. 728, §1, is
38 repealed.

1 6. The bill amends Title 17-A, section 1231, subsection 6 regarding supervised
2 release for sex offenders to make clear that, in the event the court revokes a period of
3 supervised release and instead requires the person to serve time in prison, any remaining
4 portion of the period of supervised release that is not required to be served in prison may
5 not run during the time the person is in prison, and must resume after the person is
6 released from prison.

7 7. The bill amends Title 17-A, section 1252, subsection 4-E regarding imprisonment
8 for a conviction of gross sexual assault against a person under 12 years of age to stipulate
9 that supervised release is required following the term of imprisonment.