

# MAINE STATE LEGISLATURE

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SMG  
H. & D.

L.D. 18

Date: 4/29/19

(Filing No. H- 175)

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 19, L.D. 18, Bill, "An Act To Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victims of Domestic Violence"

Amend the bill by striking out everything after the enacting clause and before the emergency clause and inserting the following:

**'Sec. 1. 17-A MRSA §207-A, sub-§1, ¶B,** as amended by PL 2017, c. 432, Pt. D, §1, is further amended to read:

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 208-D, 208-E, 208-F, 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 208-D, 208-E, 208-F, 209-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208,

**COMMITTEE AMENDMENT**

1 208-B or 208-C and it had been pled and proved that the victim was a family or  
2 household member.

3 Violation of this paragraph is a Class C crime.

4 **Sec. 2. 17-A MRSA §§208-D, 208-E and 208-F** are enacted to read:

5 **§208-D. Domestic violence aggravated assault**

6 **1. A person is guilty of domestic violence aggravated assault if that person:**

7 A. Violates section 208, subsection 1, paragraph A and the victim is a family or  
8 household member as defined in Title 19-A, section 4002, subsection 4. Violation of  
9 this paragraph is a Class B crime;

10 B. Violates section 208, subsection 1, paragraph A-1 and the victim is a family or  
11 household member as defined in Title 19-A, section 4002, subsection 4. Violation of  
12 this paragraph is a Class A crime;

13 C. Violates section 208, subsection 1, paragraph B and the victim is a family or  
14 household member as defined in Title 19-A, section 4002, subsection 4. Violation of  
15 this paragraph is a Class B crime; or

16 D. Violates section 208, subsection 1, paragraph C and the victim is a family or  
17 household member as defined in Title 19-A, section 4002, subsection 4. Violation of  
18 this paragraph is a Class B crime.

19 **§208-E. Domestic violence elevated aggravated assault**

20 **1. A person is guilty of domestic violence elevated aggravated assault if:**

21 A. The person violates section 208-B; and

22 B. The victim is a family or household member as defined in Title 19-A, section  
23 4002, subsection 4.

24 **2. Violation of this section is a Class A crime.**

25 **§208-F. Domestic violence elevated aggravated assault on pregnant person**

26 **1. A person is guilty of domestic violence elevated aggravated assault on a pregnant**  
27 **person if:**

28 A. The person violates section 208-C; and

29 B. The victim is a family or household member as defined in Title 19-A, section  
30 4002, subsection 4.

31 **2. Violation of this section is a Class A crime.**

32 **Sec. 3. 17-A MRSA §209-A, sub-§1, ¶B,** as amended by PL 2017, c. 432, Pt. D,  
33 **§2,** is further amended to read:

34 **B. The person violates paragraph A and at the time of the offense:**

35 (1) Has one or more prior convictions for violating paragraph A or for violating  
36 section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A or one or more prior

1 convictions for engaging in conduct substantially similar to that contained in  
2 paragraph A or in section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A in  
3 another jurisdiction;

4 (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
5 subsection 1 or one or more prior convictions for engaging in conduct  
6 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
7 another jurisdiction;

8 (3) Has one or more prior convictions for violating Title 15, section 1092,  
9 subsection 1, paragraph B when the condition of release violated is specified in  
10 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
11 the alleged victim in the case for which the defendant was on bail was a family or  
12 household member as defined in Title 19-A, section 4002, subsection 4; or

13 (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,  
14 and the State had pled and proved that the victim of the applicable prior  
15 conviction was a family or household member, as defined in Title 19-A, section  
16 4002, subsection 4, or has one or more prior convictions in another jurisdiction  
17 for engaging in conduct substantially similar to that contained in section 208,  
18 208-B or 208-C and it had been pled and proved that the victim was a family or  
19 household member.

20 Violation of this paragraph is a Class C crime.

21 **Sec. 4. 17-A MRSA §210-B, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D,  
22 §3, is further amended to read:

23 B. The person violates paragraph A and at the time of the offense:

24 (1) Has one or more prior convictions for violating paragraph A or for violating  
25 section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or 211-A or one or more  
26 prior convictions for engaging in conduct substantially similar to that contained  
27 in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or  
28 211-A in another jurisdiction;

29 (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
30 subsection 1 or one or more prior convictions for engaging in conduct  
31 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
32 another jurisdiction;

33 (3) Has one or more prior convictions for violating Title 15, section 1092,  
34 subsection 1, paragraph B when the condition of release violated is specified in  
35 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
36 the alleged victim in the case for which the defendant was on bail was a family or  
37 household member as defined in Title 19-A, section 4002, subsection 4; or

38 (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,  
39 and the State had pled and proved that the victim of the applicable prior  
40 conviction was a family or household member, as defined in Title 19-A, section  
41 4002, subsection 4, or has one or more prior convictions in another jurisdiction  
42 for engaging in conduct substantially similar to that contained in section 208,

1 208-B or 208-C and it had been pled and proved that the victim was a family or  
2 household member.

3 Violation of this paragraph is a Class C crime.

4 **Sec. 5. 17-A MRSA §210-C, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D,  
5 §4, is further amended to read:

6 B. The person violates paragraph A and at the time of the offense:

7 (1) Has one or more prior convictions for violating paragraph A or for violating  
8 section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 211-A or one or more  
9 prior convictions for engaging in conduct substantially similar to that contained  
10 in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or  
11 211-A in another jurisdiction;

12 (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
13 subsection 1 or one or more prior convictions for engaging in conduct  
14 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
15 another jurisdiction;

16 (3) Has one or more prior convictions for violating Title 15, section 1092,  
17 subsection 1, paragraph B when the condition of release violated is specified in  
18 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
19 the alleged victim in the case for which the defendant was on bail was a family or  
20 household member as defined in Title 19-A, section 4002, subsection 4; or

21 (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,  
22 and the State had pled and proved that the victim of the applicable prior  
23 conviction was a family or household member, as defined in Title 19-A, section  
24 4002, subsection 4, or has one or more prior convictions in another jurisdiction  
25 for engaging in conduct substantially similar to that contained in section 208,  
26 208-B or 208-C and it had been pled and proved that the victim was a family or  
27 household member.

28 Violation of this paragraph is a Class C crime.

29 **Sec. 6. 17-A MRSA §211-A, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D,  
30 §5, is further amended to read:

31 B. The person violates paragraph A and at the time of the offense:

32 (1) Has one or more prior convictions for violating paragraph A or for violating  
33 section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C or one or more prior  
34 convictions for engaging in conduct substantially similar to that contained in  
35 paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C in  
36 another jurisdiction;

37 (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
38 subsection 1 or one or more prior convictions for engaging in conduct  
39 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
40 another jurisdiction;

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1 (3) Has one or more prior convictions for violating Title 15, section 1092,  
2 subsection 1, paragraph B when the condition of release violated is specified in  
3 Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when  
4 the alleged victim in the case for which the defendant was on bail was a family or  
5 household member as defined in Title 19-A, section 4002, subsection 4; or

6 (4) Has one or more prior convictions for violating section 208, 208-B or 208-C,  
7 and the State had pled and proved that the victim of the applicable prior  
8 conviction was a family or household member, as defined in Title 19-A, section  
9 4002, subsection 4, or has one or more prior convictions in another jurisdiction  
10 for engaging in conduct substantially similar to that contained in section 208,  
11 208-B or 208-C and it had been pled and proved that the victim was a family or  
12 household member.

13 Violation of this paragraph is a Class C crime.

14 **Sec. 7. 19-A MRSA §4002, sub-§4**, as amended by PL 2015, c. 296, Pt. C, §24  
15 and affected by Pt. D, §1, is further amended to read:

16 **4. Family or household members.** "Family or household members" means spouses  
17 or domestic partners or former spouses or former domestic partners, individuals presently  
18 or formerly living together as spouses, parents of the same child, adult household  
19 members related by consanguinity or affinity or minor children of a household member  
20 when the defendant is an adult household member and, for the purposes of Title 15,  
21 section 1023, subsection 4, paragraph B-1 and Title 15, section 1094-B, this chapter and  
22 Title 17-A, sections 15, 207-A, ~~208-D, 208-E, 208-F,~~ 209-A, 210-B, 210-C, 211-A, 1201,  
23 1202 and 1253 only, includes individuals presently or formerly living together and  
24 individuals who are or were sexual partners. Holding oneself out to be a spouse is not  
25 necessary to constitute "living as spouses." For purposes of this subsection, "domestic  
26 partners" means 2 unmarried adults who are domiciled together under long-term  
27 arrangements that evidence a commitment to remain responsible indefinitely for each  
28 other's welfare.

29 **Sec. 8. 19-A MRSA §4011, sub-§5** is enacted to read:

30 **5. Repeat violations.** A person who commits a violation under subsection 1 and has  
31 2 or more prior convictions under subsection 1 or 2 or more convictions for engaging in  
32 substantially similar conduct in another jurisdiction commits a Class C crime. Title 17-A,  
33 section 9-A governs the use of prior convictions when determining a sentence.

34 **Sec. 9. 19-A MRSA §4012, sub-§5**, as enacted by PL 1995, c. 694, Pt. B, §2 and  
35 affected by Pt. E, §2, is amended to read:

36 **5. Arrest in certain situations.** When a law enforcement officer has probable cause  
37 to believe that there has been a criminal violation under section 4011 of a court-approved  
38 consent agreement or a protection order issued pursuant to this chapter or Title 15,  
39 chapter 12-A, or that a violation of Title 17-A, section 208 ~~has occurred between~~  
40 ~~members of the same family or household~~ 208-D, 208-E, 208-F has occurred, that  
41 enforcement officer shall arrest and take into custody the alleged offender.'

42 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
43 section number to read consecutively.

# COMMITTEE AMENDMENT

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**SUMMARY**

This amendment amends the bill by changing the crime of domestic violence aggravated assault to create the Class A variant of aggravated assault that is consistent with the existing crime of Class A aggravated assault under the Maine Revised Statutes, Title 17-A section 208, subsection 1, paragraph A-1, when the defendant causes bodily injury to another that causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ. The amendment adds the newly created crimes of domestic violence aggravated assault, domestic violence elevated aggravated assault and domestic violence elevated aggravated assault on a pregnant person to the predicates that may be used to elevate existing domestic violence crimes. The amendment also adds reference to the newly created crimes of domestic violence aggravated assault, domestic violence elevated aggravated assault and domestic violence elevated aggravated assault on a pregnant person to the definition of "family or household members" under Title 19-A, chapter 101, which concerns protection from abuse. The amendment makes one nonsubstantive, grammatical correction to the provision of the bill on repeat violations under the protection from abuse law. The amendment adds the newly created crimes of domestic violence aggravated assault, domestic violence elevated aggravated assault and domestic violence elevated aggravated assault on a pregnant person to the mandatory arrest provisions of Title 19-A, section 4012, subsection 5 and repeals reference to a violation of Title 17-A, section 208 that has occurred between members of the same family or household as unnecessary following inclusion in the subsection of the newly created crimes.

**FISCAL NOTE REQUIRED**  
(See attached)



# 129th MAINE LEGISLATURE

LD 18

LR 129(02)

## An Act To Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victims of Domestic Violence

Fiscal Note for Bill as Amended by Committee Amendment *A(H-175)*

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

### Fiscal Note

Current biennium cost increase - General Fund  
 Minor revenue increase - General Fund  
 Minor revenue increase - Other Special Revenue Funds

### Correctional and Judicial Impact Statements

The bill establishes new Class A and B crimes regarding domestic violence aggravated assault. These new crimes are variants of existing aggravated assault crimes which have the same class and no additional costs are anticipated from these provisions.

The bill also adds these newly created domestic violence aggravated assault crimes to the predicates that may elevate a Class D crime of domestic violence to a Class C crime. The Maine Commission on Indigent Legal Services has indicated that this could increase costs to the commission by minor amounts in future biennia. The elevation of a Class D crime to a Class C will increase costs to the Department of Corrections (DOC) since Class D sentences are served in county jails and Class C are longer and are served in state facilities. Each conviction elevated to a Class C costs DOC \$44,106 for a one year sentence.

Also, the bill establishes a new Class C crime for a person who violates a protection from abuse order for the third time. In fiscal year 2017-18 there were 797 charges for violations of protective orders brought in 720 cases, indicating that some cases include more than one violation. Again, each Class C conviction costs DOC \$44,106 for a one year sentence.

The additional workload associated with the minimal number of new cases filed does not require additional funding at this time for the courts. The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.