MAINE STATE LEGISLATURE

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(ONE HUNDRED	AND TWELI	TH LEGIS	LATURE	
Legislative [Document			No. 1	335
S.P. 497			In	Senate, April 17,	1985
Reference	e to the Committ	tee on Judicia	ry suggested	and ordered printe	ed.
		JOY J.	O'BRIEN,	Secretary of the Se	nate
Presented by	Senator Carpente	er of Aroosto	ok.		
	Si	TATE OF MA	AINE		
	IN THE NINETEEN HU	E YEAR OF JNDRED ANI			
	CT to Amend omicide in t				
lature do		ome effect	tive unti	of the Legi l 90 days aft ies; and	
vised Sta 1-A has be present I	atutes, Tit een found r	le 17-A, not to i	section reflect	the Maine R 201, subsecti closely enou ts enactment	on gh
Wherea ue to caus depraved State; and	se a serious indifferer	s impedime	ent to th		n- he he
pressly of be charged	as, the Mair declare crim d when the nce murder i	ninally ne greater	egligent offens	manslaughter	

Whereas, this has caused and will continue to cause unnecessary confusion; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

- 9 Be it enacted by the People of the State of Maine as 10 follows:
- 11 17-A MRSA §201, sub-§1-A, as enacted by PL 1983, c. 450, §2, is repealed and the following enacted in its place:
- 14 l-A. For purposes of subsection 1, paragraph B,
 15 when the crime of depraved indifference murder is
 16 charged, the crime of criminally negligent manslaugh17 ter shall be deemed to be charged.
- 18 **Emergency clause.** In view of the emergency cited 19 in the preamble, this Act shall take effect when ap-20 proved.
- 21 STATEMENT OF FACT

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22 Basis for repeal of present language.

The Maine Revised Statutes, Title 17-A, 201, subsection 1-A, as enacted by public law 1983, chapter 450, section 2, was designed with salutary purpose in mind of defining the "fault" element of depraved indifference murder in conformity with its development in recent decisions of the Maine Since its enactment, certain trial courts Law Court. have found this law to be both confusing and inconsistent with such Maine case law. See e.g., State v. Willoughby, No. CR-84-57 (Me. Super. Ct., Ken. Cty., May 16, 1984); State v. Michaud, No. CR-84-516 (Me. Super. Ct., Ken. Cty., Sept. 14, 1984); State v. Quinn, No. CR-84-69 (Me. Super. Ct. Wash. Cty., Jan. 12, 1984). Such findings demonstrate that the Maine Revised Statutes, Title 17-A, section 201, subsection

1-A unnecessarily imperils the intended meaning of 1 2 the "fault" element and, in practical effect, creates 3 a serious impediment to the use of the depraved indifference murder alternative by the State. 4 5 consequence, it is best to repeal this law, allowing 6 the recent Maine Law Court decisions to wholly con-7 trol.

Basis for replacement language.

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Although the Maine Law Court has previously had occasion to find that criminally negligent manslaughter is a "lesser included offense" of depraved indifference murder, State v. Goodall, 407 A.2d 268, 280 n.17 (Me. 1979), recently the continued viability of this finding has come into question at the trial level in State v. Michaud, No. CR-84-607 (Me. Ct., Ken. Cty.) on the ground that, unlike criminal negligence, the risk analysis relative to depraved indifference murder includes "serious bodily injury" as well as "death." See generally, State v. Crocker, 435 A.2d 58, 63, 67 (Me. 1981); State v. Joy, A.2d 408, 411 (Me. 1982). The new language of subsection 1-A is designed to eliminate any potential problem by expressly declaring that when the depraved indifference murder alternative is charged, criminally negligent manslaughter is automatically an native for the fact finder if a rational basis exists for considering it.

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