

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
115TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1428, L.D. 2040, Bill, "An Act to Increase the Penalties for Committing Repeated Assault"

Amend the bill by striking out the title and substituting the following:

'An Act to Increase the Penalties for Committing Repeated Crimes against the Person and Repeated Acts of Domestic Violence'

Further amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'Sec. 1. 17-A MRS §212 is enacted to read:

§212. Classification of offenses against the person

1. A violation of this chapter committed against a member of the actor's family or household that would otherwise be a Class D crime is a Class C crime if the actor has 2 or more prior Maine convictions for violations of any combination of this chapter or of Title 19, section 769. For purposes of this section, the dates of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same date. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of the offense being enhanced is presumed to be that date stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

2. It is an affirmative defense to prosecution under this section that a victim of any of the prior offenses was not a member of the actor's family or household.

3. As used in this section, "member of the actor's family or household" means the actor's spouse or former spouse, an

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2 individual presently or formerly living together with the actor
3 as spouse, the natural parent of the actor's child, an adult
4 household member related to the actor by consanguinity or
5 affinity and an individual presently or formerly living together
6 with the actor as a sexual partner. Professing to be a spouse is
7 not necessary to constitute "living as spouses."

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FISCAL NOTE

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11 Increasing a Class D crime to a Class C crime for repeated
12 assaults will increase the average cost and number of sentences
13 for certain assault crimes served at the State's correctional
14 institutions. Sentences imposed for Class D offenses must be
15 served in a county jail facility. Sentences imposed for a Class
16 C crime must be served in a state correctional institution unless
17 the sentence is 9 months or less. The State would be responsible
18 for the costs of housing such prisoners whether the sentence is
19 served in the county or state correctional system. The cost per
20 sentence for a Class C crime is \$40,640 based upon an average
21 length of stay of one year and 9 months.'

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STATEMENT OF FACT

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27 This amendment replaces the bill but carries out the
28 original intent to make repeated assaults against members of the
29 actor's family or household a more serious crime. This amendment
30 does not include the provisions in the original bill regarding
31 additional enhancement of penalties for extremely young victims
32 of assault. The current Class C classification is retained for
33 assaults against victims under 6 years of age.

34

This amendment also adds a fiscal note to the bill.