

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

2  
4  
6  
8  
10  
12  
14  
16  
18  
20  
22  
24  
26  
28  
30  
32  
34  
36  
38  
40  
42  
44  
46  
48  
50

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
116TH LEGISLATURE  
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 48, L.D. 64, Bill, "An Act to Establish Consecutive Sentencing and Mandatory Minimum Sentences for Certain Persons Convicted of Gross Sexual Assault"

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

'An Act to Establish Minimum Sentence Enhancements for Repeated Convictions for Gross Sexual Assault'

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 MRSA §253, sub-§6 is enacted to read:

6. In using a sentencing alternative involving a term of imprisonment for any natural person convicted of violating this section, a court shall, in determining the maximum period of incarceration as the 2nd step in the sentencing process, treat each prior Maine conviction for a violation of this section as an aggravating sentencing factor.

A. When the sentencing class for a prior conviction under this section is Class A, the court shall enhance the basic period of incarceration by a minimum of 4 years of imprisonment.

B. When the sentencing class for a prior conviction under this section is Class B, the court shall enhance the basic period of incarceration by a minimum of 2 years of imprisonment.

C. When the sentencing class for a prior conviction under this section is Class C, the court shall enhance the basic period of incarceration by a minimum of one year of imprisonment.

**COMMITTEE AMENDMENT**

2 In arriving at the final sentence as the 3rd step in the  
3 sentencing process, the court may not suspend that portion of the  
4 maximum term of incarceration based on a prior conviction unless  
5 the court is of the opinion that exceptional circumstances  
6 justify that suspension in which event the court shall set forth  
7 in detail its reasons on the record.

8  
9  
10 **FISCAL NOTE**

11 This bill establishes that a prior conviction for gross  
12 sexual misconduct is an aggravating factor and that the term of  
13 imprisonment associated with the prior conviction must be added  
14 to the basic sentence for the subsequent crime, except under  
15 exceptional circumstances.

16 Sentences of more than 9 months for Class A, B and C crimes  
17 must be served in a state correctional institution.

18 If the prior conviction was a Class A crime, the term of  
19 imprisonment may be increased by 4 years, at an estimated cost to  
20 the State of \$96,680 per sentence.

21 If the prior conviction was a Class B crime, the term of  
22 imprisonment may be increased by 2 years, at an estimated cost to  
23 the State of \$48,340 per sentence.

24 If the prior conviction was a Class C crime, the term of  
25 imprisonment may be increased by one year, at an estimated cost  
26 to the State of \$24,170 per sentence.

27  
28  
29  
30  
31  
32 **STATEMENT OF FACT**

33 This amendment replaces the bill. It requires the court to  
34 consider prior convictions for gross sexual assault in  
35 determining the appropriate term of imprisonment for a subsequent  
36 conviction for gross sexual assault. A prior conviction is an  
37 aggravating factor, and the court must add the term attributable  
38 to that factor to the basic sentence that would otherwise be  
39 imposed for the subsequent crime. This is consistent with the  
40 latest Law Court opinion addressing the sentencing process, State  
41 v. Hewey, No. 6460 (Me. Mar. 24, 1993). If exceptional  
42 circumstances exist, the court may suspend a portion or all of  
43 the term attributable to the prior conviction, but only if it  
44 provides reasons for the suspended sentence on the record.

45 This amendment also adds a fiscal note.  
46  
47  
48