

# MAINE STATE LEGISLATURE

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# 117th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1995

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Legislative Document

No. 1234

H.P. 879

House of Representatives, April 6, 1995

**An Act to Amend the Maine Criminal Code to Ensure Fairness in  
Classifying a Crime Based on the Value of Loss or Damage.**

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Submitted by the Department of the Attorney General pursuant to Joint Rule 24.  
Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative CLUKEY of Houlton.  
Cosponsored by Representatives: CLARK of Millinocket, JOHNSON of South Portland,  
THOMPSON of Naples.

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

**Sec. 1. 17-A MRSA §15, sub-§1, ¶A**, as amended by PL 1993, c. 475, §3, is further amended to read:

A. Any person who the officer has probable cause to believe has committed or is committing:

(1) Murder;

(2) Any Class A, Class B or Class C crime;

(3) Assault while hunting;

(4) Any offense defined in chapter 45;

(5) Assault, criminal threatening or terrorizing, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

(5-A) Assault or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 321;

(6) Theft as defined in section 357, when the value of the services is ~~\$1,000~~ \$2,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by an official of the Division of Probation and Parole;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1051, subsections 2 and 9; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A; or

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; Title 19, section 769, subsection 2; and Title 19, section 770, subsection 5; and

**Sec. 2. 17-A MRSA §352, sub-§5, ¶D,** as enacted by PL 1975, c. 499, §1, is amended to read:

D. If the value of property or services cannot be ascertained beyond a reasonable doubt pursuant to the standards set forth above, the trier of fact may find the value to be not less than a certain amount, and if no such minimum value can be thus ascertained, the value ~~shall-be~~ is deemed to be an amount less than ~~\$500~~ \$1,000.

**Sec. 3. 17-A MRSA §362, sub-§2,** as amended by PL 1977, c. 510, §48, is further amended to read:

2. Theft is a Class B crime if:

A. The value of the property or services exceeds ~~\$5,000~~ \$10,000;

B. The property stolen is a firearm or an explosive device; or

C. The actor is armed with a dangerous weapon at the time of the offense.

**Sec. 4. 17-A MRSA §362, sub-§3,** as amended by PL 1991, c. 548, Pt. A, §8, is further amended to read:

3. Theft is a Class C crime if:

A. The value of the property or services is more than ~~\$1,000~~ \$2,000 but not more than ~~\$5,000~~ \$10,000; or

B. The theft is a violation under section 355.

**Sec. 5. 17-A MRSA §362, sub-§§4 and 5,** as enacted by PL 1975, c. 499, §1, are amended to read:

4. Theft is a Class D crime if:

A. It is a ~~velation~~ violation of section 360, regardless of the value involved; or

2           B. The value of the property or services exceeds \$500  
3           \$1,000 but does not exceed ~~\$1,000~~ \$2,000.

4           5. Theft is a Class E crime if the value of the property or  
5           services does not exceed \$500 \$1,000.

6           **Sec. 6. 17-A MRSA §703, sub-§2**, as repealed and replaced by PL  
7           1989, c. 187, §2, is amended to read:

10           2. Violation of this section is:

12           A. A Class B crime if the face value of the written  
13           instrument or the aggregate value of instruments exceeds  
14           ~~\$5,000~~ \$10,000;

16           B. A Class C crime if:

18                 (1) The face value of the written instrument or the  
19                 aggregate value of instruments exceeds ~~\$1,000~~ \$2,000  
20                 but does not exceed ~~\$5,000~~ \$10,000; or

22                 (2) The actor has 2 prior convictions for any  
23                 combination of theft, violation or attempted violation  
24                 of this section, violation or attempted violation of  
25                 section 702 or 708 or any violation or attempted  
26                 violation of section 401 if the intended crime within  
27                 the structure is theft, or any violation or attempted  
28                 violation of section 651. Determination of whether a  
29                 conviction constitutes a prior conviction for purposes  
30                 of this subsection ~~shall be~~ is pursuant to section 362,  
31                 subsection 3-A; or

32           C. Except as provided in paragraphs A and B, forgery is a  
33           Class D crime.

36           **Sec. 7. 17-A MRSA §708, sub-§4**, as amended by PL 1989, c. 186,  
37           is further amended to read:

38           4. Violation of this section is:

40           A. A Class B crime, if the face value of the negotiable  
41           instrument exceeds ~~\$5,000~~ \$10,000;

44           B. A Class C crime, if:

46                 (1) The face value of the negotiable instrument  
47                 exceeds ~~\$1,000~~ \$2,000 but does not exceed ~~\$5,000~~  
48                 \$10,000; or

(2) The actor has 2 prior convictions for any combination of theft, a violation of section 702, 703 or this section, a violation of section 401 in which the crime intended to be committed inside the structure is theft, a violation of section 651 or attempts at these violations. Determination of whether a conviction constitutes a prior conviction for purposes of this subsection shall ~~be~~ is pursuant to section 362, subsection 3-A;

C. A Class D crime, if the face value of the negotiable instrument exceeds \$500 \$1,000 but does not exceed \$1,000 \$2,000; or

D. A Class E crime, if the face value of the negotiable instrument does not exceed \$500 \$1,000.

**Sec. 8. 17-A MRSA §805, sub-§1, ¶¶A and B,** as enacted by PL 1975, c. 499, §1, are amended to read:

A. Damages or destroys property of another in an amount exceeding \$1,000 \$2,000 in value, having no reasonable ground to believe that he the person has a right to do so; or

B. Damages or destroys property in an amount exceeding \$1,000 \$2,000 in value, to enable any person to collect insurance proceeds for the loss caused; or

**Sec. 9. 17-A MRSA §953, sub-§1, ¶A,** as amended by PL 1977, c. 55, is further amended to read:

A. Engaging in bookmaking to the extent that he the person receives or accepts in any 24-hour period more than 5 bets totaling more than \$250 \$500; or

**Sec. 10. 17-A MRSA §953, sub-§1, ¶C,** as amended by PL 1975, c. 740, §94, is further amended to read:

C. Receiving in connection with a lottery, mutuel or other gambling scheme or enterprise, more than \$500 \$1,000 in any 24-hour period played in the scheme or enterprise.

## STATEMENT OF FACT

Since the inception of the Maine Criminal Code in 1976, inflation has eroded the value of the dollar more than 200%. This erosion was used as the basis for doubling the limits of all fines authorized under section 1301 of the Maine Criminal Code. See Public Law 1991, chapter 355, sections 1 and 2. This bill

2       doubles the dollar amounts used to classify crimes based on the  
3       value of loss or damage in order to preserve the same scale of  
4       seriousness represented by the legislative judgment made at the  
      time the Maine Criminal Code was created.