

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
118TH LEGISLATURE
FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 229, L.D. 293, Bill, "An Act to Create a Repeat Offender Provision Addressing Crimes of Violence against Persons"

Amend the bill by striking everything after the enacting clause and before the summary and inserting in its place the following:

Sec. 1. 17-A MRSA §212, as amended by PL 1995, c. 694, Pt. D, §23 and affected by Pt. E, §2, is repealed.

Sec. 2. 17-A MRSA §254, sub-§3, ¶¶A and B, as repealed and replaced by PL 1995, c. 104, §3, are amended to read:

A. The actor was more than 10 years older than the other person; or

B. The actor knew the other person was related to the actor within the 2nd degree of consanguinity+ex.

Sec. 3. 17-A MRSA §254, sub-§3, ¶C, as repealed and replaced by PL 1995, c. 104, §3, is repealed.

Sec. 4. 17-A MRSA §255, sub-§2, as amended by PL 1995, c. 104, §7, is further amended to read:

2. Unlawful sexual contact is a Class D crime, except that a violation of subsection 1, paragraph J is a Class E crime and except that a violation of subsection 1, paragraph C, G or H is a Class C crime, and a violation of this section when the actor has 2 or more prior Maine convictions for violations of this section is a Class C crime. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of

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R. 3.

2 the offense being enhanced by no more than 5 years, although both
3 prior convictions may have occurred on the same day. The date of
4 a conviction is deemed to be the date that sentence is imposed,
5 even though an appeal was taken. The date of a commission of an
6 offense is presumed to be that stated in the complaint,
7 information or indictment, notwithstanding the use of the words
8 "on or about" or the equivalent.

9
10 **Sec. 5. 17-A MRSA §1252, sub-§4-A is enacted to read:**

11 4-A. If the State pleads and proves that, at the time any
12 crime, excluding murder, under chapter 9, 11, 13 or 27 was
13 committed, the defendant had been convicted of 2 or more crimes
14 violating chapter 9, 11, 13 or 27 or essentially similar crimes
15 in other jurisdictions, the sentencing class for the crime is one
16 class higher than it would otherwise be. In the case of a Class
17 A crime, the sentencing class is not increased, but the prior
18 record must be given serious consideration by the court when
19 imposing a sentence. For purposes of this subsection, the dates
20 of the prior convictions must precede the commission of the
21 offense being enhanced by no more than 10 years, although both
22 prior convictions may have occurred on the same date. This
23 subsection does not apply if the 2 prior offenses were committed
24 within a 3-day period. The date of a conviction is deemed to be
25 the date that sentence is imposed, even though an appeal was
26 taken. The date an offense was committed is presumed to be the
27 date stated in the complaint, information or indictment,
28 notwithstanding the use of the words "on or about" or the
29 equivalent.'

30 Further amend the bill by inserting at the end before the
31 summary the following:

32
33
34 **FISCAL NOTE**

35
36 This bill enhances the sentencing class for certain crimes.
37 It increases the penalties for certain crimes from Class B to
38 Class A crimes. Sentences of more than 9 months for both Class B
39 crimes and Class A crimes must be served in state correctional
40 institutions. Since the average length of stay for a Class A
41 crime is twice as long as a Class B crime, the incremental
42 increase in the average cost to the State's correctional
43 facilities is \$89,719. Sentences of 9 months or less for both
44 Class A crimes and Class B crimes must be served in a county
45 jail. The State provides reimbursement to the counties for
46 housing these offenders.
47

48 This bill also increases the penalty for certain crimes from
49 Class C to Class B crimes. Sentences of more than 9 months for

both Class C crimes and Class B crimes must be served in state correctional institutions. Since the average length of stay for a Class B crime is 1 year and 3 months greater than a Class C crime, the incremental increase in the average cost to the State's correctional facilities is \$36,686. Sentences of 9 months or less for both Class C crimes and Class B crimes must be served in county jails. The State provides reimbursement to the counties for housing these offenders.

This bill also increases the penalty for certain crimes from Class D to Class C crimes, resulting in a shift of costs from the counties to the State. Sentences of more than 9 months for Class C crimes must be served in state correctional institutions at the cost of \$53,033 per sentence based on an average length of stay of 1 year and 10 months. Sentences of 9 months or less for a Class C crime and all sentences for a Class D crime must be served in county jails. The State must reimburse counties for housing Class C crime offenders but does not provide reimbursement for Class D offenders.

In addition, this bill increases the penalty for certain crimes from Class E to Class D crimes. If the number of jail sentences is increased, the cost to the counties is estimated to be \$83.78 per day per prisoner with increased jail time. Costs to the counties for both Class D and E crimes are not reimbursed by the State. The amount of any increase of jail time and the resulting costs to the county jail system are expected to be insignificant.

The Judicial Department may require additional General Fund appropriations to cover increased indigent defense costs related to these cases when the class of crime is increased. The amounts can not be estimated at this time. The collection of additional fines may also increase General Fund revenue by minor amounts.'

SUMMARY

This amendment clarifies that murder is not included among those crimes for which a sentencing class may be increased. It specifies the technical aspects of prior convictions and it centralizes the repeat offender provision for crimes under the Maine Revised Statutes, Title 17-A, chapters 9, 11, 13 and 27. It also adds a fiscal note to the bill.

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