

MAINE STATE LEGISLATURE

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R. O. S.

L.D. 328

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DATE: 5-6-97

(Filing No. H-387)

CRIMINAL JUSTICE

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

COMMITTEE AMENDMENT "A" to H.P. 264, L.D. 328, Bill, "An Act to Increase the Penalty for Burglary When the Actor has Prior Convictions for Certain Enumerated Crimes"

Amend the bill by striking out all of section 1 and inserting in its place the following:

'Sec. 1. 17-A MRSA §401, sub-§2, ¶B, as amended by PL 1977, c. 510, §51, is repealed and the following enacted in its place:

B. A Class B crime if:

(1) The defendant intentionally or recklessly inflicted or attempted to inflict bodily injury on anyone during the commission of the burglary or an attempt to commit the burglary or in immediate flight after the commission or attempt;

(2) The defendant was armed with a dangerous weapon other than a firearm or knew that an accomplice was so armed;

(3) The violation was against a structure that is a dwelling place; or

(4) At the time of the burglary, the defendant had 2 or more prior Class A, B or C convictions for any combination of theft or any violation of this section or section 651, 702 or 703 or attempts to commit any of those crimes. For purposes of this subparagraph, the

COMMITTEE AMENDMENT

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dates of the prior convictions must precede the commission of the burglary by no more than 10 years, although both prior convictions may have occurred on the same date. This subparagraph does not apply if the 2 prior offenses were committed within a 3-day period. The date an offense was committed is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent; and'

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

FISCAL NOTE

This bill increases the penalty for certain crimes from 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 one 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.

The Judicial Department may require additional General Fund appropriations to cover increased indigent defense costs related to these cases where 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 limits the types of prior convictions that make burglary a Class B crime. The amendment specifies the technical aspects of defining prior convictions, changes the format of the paragraph and adds a fiscal note.