

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-1997

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Legislative Document

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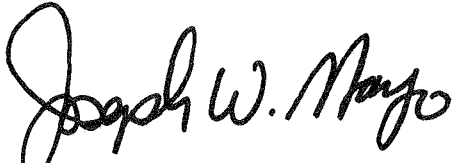
House of Representatives, May 6, 1997

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**An Act to Protect Victims of Domestic Violence.**

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Reference to the Committee on Judiciary suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative SAXL of Portland.  
Cosponsored by Senator KILKELLY of Lincoln and  
Representatives: DAVIDSON of Brunswick, DONNELLY of Presque Isle, ETNIER of  
Harpwell, McALEVEY of Waterboro, SAMSON of Jay, Senators: AMERO of Cumberland,  
BENOIT of Franklin, CATHCART of Penobscot.

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

2  
4       **Sec. 1. 17-A MRSA §207, sub-§2**, as amended by PL 1985, c. 495, §4, is further amended to read:

6           2. Assault is a Class D crime, except that it is a Class C  
8 crime in instances of bodily injury to another who has not  
10 attained his ~~that person's~~ 6th birthday, provided that the actor  
12 has attained his ~~that actor's~~ 18th birthday, ~~in which case, it is~~ a Class C crime and in instances of bodily injury to a spouse or  
14 a partner who regularly resides in the household.

16       **Sec. 2. 17-A MRSA §212, sub-§1**, as amended by PL 1995, c. 694,  
18 Pt. D, §23 and affected by Pt. E, §2, is further amended to read:

20           1. A violation of this chapter committed against a member  
22 of the actor's family or household that would otherwise be a  
24 Class D crime is a Class C crime if the actor has 2 or more prior  
26 Maine convictions for violations of any combination of this  
28 chapter or of Title 19-A, section 4011, or a 2nd violation of  
30 this chapter or Title 19-A, section 4011 that occurs within 2  
32 years of an conviction of this chapter or Title 19-A, section  
34 4011. For purposes of this section, the dates of the prior  
36 convictions must precede the commission of the offense being  
38 enhanced by no more than 5 years, although both prior convictions  
40 may have occurred on the same date. The date of a conviction is  
42 deemed to be the date that sentence is imposed, even though an  
44 appeal was taken. The date of a commission of the offense being  
46 enhanced is presumed to be that date stated in the complaint,  
48 information or indictment, notwithstanding the use of the words  
50 "on or about" or the equivalent.

32       **Sec. 3. 17-A MRSA §212, sub-§4** is enacted to read:

34           4. The court may admit and consider oral or written  
36 evidence of out-of-court statements made by a victim and may rely  
38 on that evidence to the extent of its probative value.

40       **Sec. 4. 19-A MRSA §652, sub-§7**, as enacted by PL 1995, c. 694,  
42 Pt. B, §2 and affected by Pt. E, §2, is repealed.

44       **Sec. 5. 19-A MRSA §652, sub-§8**, as enacted by PL 1995, c. 694,  
46 Pt. B, §2 and affected by Pt. E, §2, is amended to read:

48           8. **Parties under 18 years of age.** The clerk may not issue  
50 a marriage license to a person under ~~16~~ 18 years of age without:

A. The written consent of that minor's parents, guardians  
or persons to whom a court has given custody;

2 B. Notifying the judge of probate in the county in which  
the minor resides of the filing of this intention; and

4 C. Receipt of that judge of probate's written consent to  
6 issue the license. ~~If written consent from the judge has  
not been received by the 10th day from the filing of notice  
8 of the intention of marriage, consent is deemed to have been  
received and the clerk shall issue the license.~~ The judge  
10 of probate shall base a decision on whether to issue consent  
and shall consider the age of both parties and any criminal  
12 record of a party who is 18 years of age or older. The  
14 judge of probate, in the interest of public welfare, may  
order, after notice and opportunity for hearing, that a  
16 license not be issued.

18 **Sec. 6. 19-A MRSA §4013, sub-§4** is enacted to read:

20 4. Domestic Abuse Homicide Review Panel. The commission  
shall establish the Domestic Abuse Homicide Review Panel,  
22 referred to in this subsection as the "panel," to review the  
deaths of persons who are killed by family or household members  
as defined by section 4002.

24 A. The chair of the commission shall appoint members of the  
26 panel who have experience in providing services to victims  
of domestic abuse and shall include at least the following:  
28 the Chief Medical Examiner, a physician, a nurse, a law  
enforcement officer, the Commissioner of Human Services, the  
30 Commissioner of Corrections, the Commissioner of Public  
Safety, a judge as assigned by the Chief Justice of the  
32 Supreme Judicial Court, a representative of the Maine  
Prosecutors Association, an assistant attorney general  
34 responsible for the prosecution of homicide cases designated  
by the Attorney General, an assistant attorney general  
36 handling child protection cases designated by the Attorney  
General, a victim-witness advocate, a mental health service  
38 provider, a facilitator of a certified batterers'  
intervention program under section 4014 and 3 persons  
40 designated by a statewide coalition for family crisis  
services. Members who are not state officials serve a  
42 2-year term without compensation, except that of those  
initially appointed by the chair, 1/2 must be appointed for  
44 a one-year term.

46 B. The purpose of the panel is to recommend to state and  
48 local agencies methods of improving the system for  
protecting persons from domestic abuse, including  
50 modifications of laws, rules, policies and procedures  
following completion of adjudication.

2           C. The panel may issue subpoenas requiring persons to  
4           disclose or provide information or records in their  
6           possession that are necessary and relevant to a homicide  
          review.

8           D. The proceedings and records of the panel are  
10          confidential and are not subject to subpoena, discovery or  
12          introduction into evidence in a civil or criminal action.  
          The commission shall disclose conclusions of the review  
          panel upon request, but may not disclose data that is  
          otherwise classified as confidential.

14          **Sec. 7. Study commission.** There is created the Study  
16          Commission to Review the Impact of the Maine Bail Code on  
          Domestic Violence, referred to in this section as the "study  
18          commission."

20          1. **Scope of review.** The study commission shall review the  
          extent and type of bail granted in domestic violence cases, the  
22          extent of compliance with bail provisions and the extent of  
          revocation of bail. The study commission shall also review the  
24          impact of bail on victims of domestic violence.

26          2. **Membership.** All appointments of members must be made  
          within 20 days of the effective date of this Act. The members of  
28          the study commission are:

30           A. Two members appointed by the Governor, one member  
          representing the Department of Corrections and one member  
32           representing the Maine Prosecutors Association;

34           B. Two members appointed by the Chief Justice of the  
          Supreme Judicial Court;

36           C. One member of the Senate appointed by the President of  
          the Senate;

38           D. One member of the House of Representatives appointed by  
40           the Speaker of the House;

42           E. Three members appointed jointly by the President of the  
          Senate and the Speaker of the House, one from the Abuse  
44           Commission and 2 Family Crisis Coalition members; and

46           F. Two members appointed by the Attorney General, one  
          member from the Criminal Law Advisory Commission and one  
48           member of the Attorney General's staff.

50          3. **Compensation.** Members serve without compensation.

2           **4. First meeting.** The first meeting of the study  
4 commission must be called by the Executive Director of the  
Legislative Council within 20 days of the date when all  
appointments have been made.

6           **5. Staff.** The Department of Corrections shall provide  
8 staff for the study commission.

10          **6. Report.** The study commission shall report its findings  
12 and recommendations, including any necessary implementing  
legislation, to the Second Regular Session of the 118th  
14 Legislature by December 1, 1997.

**Sec. 8. Pilot projects; judicial supervision.** The Chief Justice of  
16 the Supreme Judicial Court shall establish 2 pilot projects to  
18 provide direct judicial supervision over individuals convicted of  
domestic violence crimes against their families or household  
members to monitor and ensure compliance with court orders.

20           1. Projects must be established within 2 years of the  
22 effective date of this section. One must be located in an urban  
area and one must be located in a rural area.

24           2. Under the judicial supervision pilot projects, the court  
26 may impose conditions on an individual convicted of a domestic  
abuse crime that may include but are not limited to:

28           A. Prohibitions against contact with specific named  
30 individuals;

32           B. Protection from abuse or harassment orders that run  
34 against that person; and

36           C. Mandatory attendance at a batterers' intervention  
program.

38           3. Under the pilot project, within 60 days after the court  
40 has imposed conditions authorized under subsection 2, the  
convicted individual shall demonstrate to the court that the  
individual is in compliance with those conditions.

42           4. The Supreme Judicial Court may adopt rules as necessary  
44 to implement the pilot projects.

46           5. The Chief Justice of the Supreme Judicial Court shall  
48 report to the joint standing committee of the Legislature having  
jurisdiction over judicial matters on the progress of the pilot  
projects by January 1, 1999.

