

MAINE STATE LEGISLATURE

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CRIMINAL JUSTICE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
120TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 240, L.D. 292, Bill, "An Act to Add Prior Conviction for Burglary of a Motor Vehicle to Enhancement of Theft Penalties"

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

'An Act to Add Prior Conviction for Burglary of a Motor Vehicle to Enhancement of Theft Penalties and to Include Burglary of a Motor Vehicle in the Presumption Provision for Theft'

Further amend the bill by inserting after the enacting clause and before section 1 the following:

'Sec. 1. 17-A MRSA §361, sub-§2, as amended by PL 1975, c. 740, §58, is further amended to read:

2. Proof that the defendant was in exclusive possession of property that had recently been taken under circumstances constituting a violation of this chapter or of chapter 27 shall give gives rise to a presumption that the defendant is guilty of the theft or robbery of the property, as the case may be, and proof that the theft or robbery occurred under circumstances constituting a violation of section 401 or 405 also shall-give gives rise to a presumption that the defendant in exclusive possession of property recently so taken is guilty of the burglary or burglary of a motor vehicle, as the case may be.'

Further amend the bill in section 1 in subsection 3-A in the 5th line (page 1, line 10 in L.D.) by inserting after the following: "theft" the following: 'or of section 405 in which the crime intended to be committed inside the motor vehicle is theft'

COMMITTEE AMENDMENT

2 Further amend the bill by relettering or renumbering any
nonconsecutive Part letter or section number to read
4 consecutively.

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

8
10 **FISCAL NOTE**

12 This bill increases the penalty for certain crimes from
Class D or Class E to Class C crimes, resulting in a shift of
14 costs from the counties to the State. Sentences of more than 9
months for Class C crimes must be served in state correctional
16 institutions at the cost of \$71,306 per sentence based on an
average length of stay of 2 years and 5 months. Sentences of 9
18 months or less for a Class C crime and all sentences for a Class
D or Class E crime must be served in county jails.'

20
22 **SUMMARY**

24 This amendment clarifies the bill by establishing that
burglary committed inside a motor vehicle may be used as a prior
26 conviction for purposes of the enhancement of theft penalties.
The amendment also creates the presumption that a defendant is
28 guilty of burglary of a motor vehicle if a defendant is in
exclusive possession of property recently taken under
30 circumstances constituting a theft or robbery and burglary of a
motor vehicle. A similar presumption currently exists for
32 burglary involving a structure.

This amendment also adds a fiscal note.