

MAINE STATE LEGISLATURE

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L.D. 2160

DATE: *March 25, 2002*

(Filing No. S-*499*)

CRIMINAL JUSTICE

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STATE OF MAINE
SENATE
120TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT *A* to S.P. 801, L.D. 2160, Bill, "An Act to Amend the Maine Criminal Code to Address Terrorism"

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

Sec. 1. 15 MRSA §101-B, sub-§4, ¶A, as amended by PL 2001, c. 354, §3 and c. 471, Pt. D, §15, is further amended to read:

A. Commit the defendant to the custody of the Commissioner of Behavioral and Developmental Services to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. At the end of 30 days or sooner, and again in the event of recommitment, at the end of 60 days and one year, the State Forensic Service shall forward a report to the Commissioner of Behavioral and Developmental Services relative to the defendant's competence to stand trial and its reasons therefor. The commissioner shall without delay file the report with the court having jurisdiction of the case. The court shall without delay set a date for and hold a hearing on the question of the defendant's competence to stand trial and receive all relevant testimony bearing on the question. If the court determines that the defendant is not competent to stand trial, but there does exist a substantial probability that the defendant will be competent to stand trial in the foreseeable future, it shall recommit the defendant to the custody of the Commissioner of Behavioral and Developmental Services to be placed in an appropriate institution for the mentally ill or the mentally retarded for observation, care and treatment. If the defendant is

COMMITTEE AMENDMENT

2 charged with an offense under Title 17-A, chapter 9, 11 or
3 13 or Title 17-A, section 506-A, 802 or ~~803~~ 803-A, and the
4 court determines that the defendant is not competent to
5 stand trial and there does not exist a substantial
6 probability that the defendant can be competent in the
7 foreseeable future, the court shall dismiss all charges
8 against the defendant and order the Commissioner of
9 Behavioral and Developmental Services to commence
10 involuntary commitment proceedings pursuant to Title 34-B,
11 chapter 3, subchapter IV or chapter 5, subchapter III. If
12 the defendant is charged with offenses not listed in the
13 previous sentence, and the court determines that the
14 defendant is not competent to stand trial and there does not
15 exist a substantial probability that the defendant can be
16 competent in the foreseeable future, the court shall dismiss
17 all charges against the defendant and notify the appropriate
18 authorities who may institute civil commitment procedures
19 for the individual; or

20 **Sec. 2. 17-A MRSA §2, sub-§§6-A, 21-A to 21-C and 25** are enacted
21 to read:

22 6-A. "Critical infrastructure" means critical public or
23 private infrastructure resource systems involved in providing
24 services necessary to ensure or protect the public health, safety
25 and welfare, including, but not limited to, a public water system
26 or a public water source; an emergency, governmental, medical,
27 fire or law enforcement response system; a public utility system;
28 a financial system; an educational system; or a food or clothing
29 distribution system.

30 21-A. "Public utility system" includes any pipeline, gas,
31 electric, steam, water, oil, transportation, sanitation,
32 communication or other system operated for public use regardless
33 of ownership.

34 21-B. "Public water source" has the same meaning as in
35 Title 22, section 2641.

36 21-C. ""Public water system" has the same meaning as in
37 Title 22, section 2601, subsection 8.

38 25. "Terroristic intent" means the intent to do any of the
39 following for the purpose of intimidating or coercing a civilian
40 population or to affect the conduct of government:

41 A. Cause serious bodily injury or death to multiple persons;

42 B. Cause substantial damage to multiple structures; or

C. Cause substantial damage to critical infrastructure.

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Sec. 3. 17-A MRSA §208-B sub-§1, as enacted by PL 1997, c. 461, §1, is amended to read:

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1. A person is guilty of elevated aggravated assault if that person:

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A. Intentionally or knowingly causes serious bodily injury to another person with the use of a dangerous weapon; or

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B. Engages in conduct that manifests a depraved indifference to the value of human life and that in fact causes serious bodily injury to another person with the use of a dangerous weapon; or

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C. With terroristic intent engages in conduct that in fact causes serious bodily injury to another person.

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Sec. 4. 17-A MRSA §213 is enacted to read:

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§213. Aggravated reckless conduct

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1. A person is guilty of aggravated reckless conduct if the person with terroristic intent engages in conduct that in fact creates a substantial risk of serious bodily injury to another person.

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2. Aggravated reckless conduct is a Class B crime.

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Sec. 5. 17-A MRSA §803, as amended by PL 1987, c. 361, §1, is repealed.

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Sec. 6. 17-A MRSA §803-A is enacted to read:

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§803-A. Causing a catastrophe

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1. A person is guilty of causing a catastrophe if the person recklessly causes a catastrophe by explosion, fire, flood, avalanche, collapse of a structure, release or dissemination of poison, toxin, radioactive material, bacteria, virus or other biological agent or vector or other such force or substance that is dangerous to human life and difficult to confine.

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2. A person is guilty of causing a catastrophe if the person with terroristic intent violates subsection 1.

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3. As used in this section, the following definitions apply.

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2 A. "Biological agent" means any microorganism, virus,
4 infectious substance, product of biotechnology or component
of any such agent, either naturally occurring or
bioengineered.

6 B. "Catastrophe" means:

8 (1) For purposes of subsection 1, death or serious
10 bodily injury to 10 or more persons or substantial
damage to 5 or more structures, whether or not
12 occupied; and

14 (2) For purposes of subsection 2, death or serious
bodily injury to more than one person, substantial
16 damage to 3 or more structures, whether or not
occupied, or substantial physical damage sufficient to
18 disrupt the normal functioning of a critical
infrastructure.

20 C. "Poison" means toxic or poisonous chemicals or
precursors of toxic or poisonous chemicals.

22 D. "Toxin" means the toxic material of plants, animals,
24 microorganisms, viruses, fungi or infectious substances or a
recombinant molecule, whatever its origin or method of
26 production, including:

28 (1) Any poisonous substance or biological product of
biotechnology produced by a living organism; or

30 (2) Any poisonous isomer or biological product,
32 homolog or derivative of such a substance.

34 E. "Vector" means a living organism or molecule, including
a recombinant molecule or any biological product of
36 biotechnology, capable of carrying a biological agent or
toxin to a host.

38 4. Causing a catastrophe is a Class A crime.'

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

44 **FISCAL NOTE**

46 This bill may increase prosecutions for Class A crimes.
48 Sentences of more than 9 months imposed for Class A crimes must
be served in state correctional institutions. The cost to the
State per sentence is \$230,772 based upon an average length of
50 stay of 7 years and 4 months.

2 This bill may also increase prosecutions for Class B
4 crimes. Sentences of more than 9 months imposed for Class B
6 crimes must be served in state correctional institutions. The
cost to the State per sentence is \$115,170 based upon an average
length of stay of 3 years and 8 months.

8 The Judicial Department may require additional General Fund
10 appropriations to cover indigent defense costs related to these
new cases. The amounts can not be estimated at this time. The
12 additional workload and administrative costs associated with the
minimal number of new cases filed in the court system can be
14 absorbed within the budgeted resources of the Judicial
Department. The collection of additional fines may also increase
16 General Fund revenue by minor amounts.'

18 SUMMARY

20 This amendment replaces the bill and does the following.

22 1. It adds definitions to the Maine Criminal Code to
24 address scientific advances in the methods that may be used to
commit the crime of causing a catastrophe and creates the new
26 definition "terroristic intent."

28 2. It amends the crime of elevated aggravated assault to
include when a person with terroristic intent engages in conduct
30 that in fact causes serious bodily injury to another person.

32 3. It creates the crime of aggravated reckless conduct. A
person is guilty of this crime if the person with terroristic
34 intent engages in conduct that in fact creates a substantial risk
of serious bodily injury to another person.

36 4. It amends the crime of causing a catastrophe if the
person acts with terroristic intent by lowering the threshold for
38 harm to causing death or serious bodily injury to more than one
person, substantial damage to 3 or more structures, whether or
40 not occupied, or substantial physical damage sufficient to
disrupt the normal functioning of a critical infrastructure.

42 5. It adds a fiscal note.
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