

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

SECOND REGULAR SESSION-2002

Legislative Document

No. 2160

S.P. 801

In Senate, March 6, 2002

An Act to Amend the Maine Criminal Code to Address Terrorism.

Reference to the Committee on Criminal Justice suggested and ordered printed.

A handwritten signature in cursive script that reads "Pamela L. Cahill".

PAMELA L. CAHILL
Secretary of the Senate

Presented by President BENNETT of Oxford. (GOVERNOR'S BILL).
Cosponsored by Representative POVICH of Ellsworth and
Senators: DAVIS of Piscataquis, McALEVEY of York, O'GARA of Cumberland,
Representatives: BLANCHETTE of Bangor, GERZOFSKY of Brunswick, SNOWE-MELLO
of Poland, TOBIN of Dexter, WHEELER of Bridgewater.

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

2
4 **Sec. 1. 17-A MRSA §8, sub-§1**, as amended by PL 1999, c. 438,
§1, is further amended to read:

6 1. It is a defense that prosecution was commenced after the
8 expiration of the applicable period of limitations provided in
10 this section; provided that a prosecution for terroristic murder,
murder or criminal homicide in the first or 2nd degree, or, if
12 the victim had not attained the age of 16 years at the time of
14 the crime, a prosecution for: incest; unlawful sexual contact;
sexual abuse of a minor; rape or gross sexual assault, formerly
denominated as gross sexual misconduct, may be commenced at any
time.

16 **Sec. 2. 17-A MRSA §8, sub-§2**, as amended by PL 1999, c. 438,
18 §2, is further amended to read:

20 2. Prosecutions for crimes other than terroristic murder,
murder or criminal homicide in the first or 2nd degree, or, if
22 the victim had not attained the age of 16 years at the time of
the crime, prosecutions for: incest; unlawful sexual contact;
24 sexual abuse of a minor; rape or gross sexual assault, formerly
denominated as gross sexual misconduct, are subject to the
following periods of limitations:

26 A. A prosecution for a Class A, Class B or Class C crime
28 must be commenced within 6 years after it is committed; and

30 B. A prosecution for a Class D or Class E crime must be
32 commenced within 3 years after it is committed.

34 **Sec. 3. 17-A MRSA §8, sub-§3, ¶A**, as amended by PL 1987, c.
222, §3, is further amended to read:

36 A. During any time when the accused is absent from the
38 State, but in no event shall may this provision extend the
period of limitation otherwise applicable by more than 5
40 years, except as to any crime in chapter 44, other than
section 1073, for which the period may be extended by no
42 more than 10 years;

44 **Sec. 4. 17-A MRSA §152-A, sub-§1, ¶A-1** is enacted to read:

46 A-1. The person's intent to kill was accompanied by
terroristic intent as defined in section 1071, subsection 10;

48 **Sec. 5. 17-A MRSA §803, sub-§1**, as enacted by PL 1975, c. 499,
50 §1, is amended to read:

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

8 Sec. 6. 17-A MRSA §803, sub-§2, as amended by PL 1987, c. 361,
9 §1, is repealed and the following enacted in its place:

10 2. As used in this section the following definitions apply.

12 A. "Biological agent" means any microorganism, virus,
13 infectious substance, product of biotechnology or component
14 of any such agent, either naturally occurring or
15 bioengineered.

18 B. "Catastrophe" means death or serious bodily injury to 10
19 or more human beings or substantial damage to 5 or more
20 structures.

22 C. "Poison" means toxic or poisonous chemicals or
23 precursors of toxic or poisonous chemicals.

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

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

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

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

40 Sec. 7. 17-A MRSA c. 44 is enacted to read:

42 **CHAPTER 44**

44 **TERRORISM**

46 **§1071. Definitions**

48

2 As used in this chapter, unless a different meaning is
3 plainly required by the context, the following terms have the
4 following meanings.

5 1. "Biological agent" means any microorganism, virus,
6 infectious substance, product of biotechnology or component of
7 any such agent, either naturally occurring or bioengineered,
8 capable of causing:

9 A. Death, disease or other biological malfunction in a
10 human being, an animal, a plant or another living organism;

11 B. Deterioration or contamination of food, water,
12 equipment, supplies or material of any kind; or

13 C. Deleterious alteration of the environment.

14 2. "Chemical agent" means any weapon, device, material or
15 substance that is designed or intended to cause widespread death
16 or serious bodily injury through the release, dissemination or
17 impact of toxic or poisonous chemicals or precursors of toxic or
18 poisonous chemicals.

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

27 4. "Destructive device" has the meaning set forth in 18
28 United States Code, Section 921, subsection (a), paragraph (4).

29 5. "Imitation weapon of mass destruction" means any device
30 or substance that is not a weapon of mass destruction but which
31 by appearance or representation would lead a reasonable person to
32 believe that the device or substance is a weapon of mass
33 destruction.

34 6. "Public utility system" includes any pipeline, gas,
35 electric, steam, water, oil, transportation, sanitation,
36 communication or other system operated for public use regardless
37 of ownership.

38 7. "Public water source" has the same meaning as in Title
39 22, section 2641.

2 8. "Public water system" has the same meaning as in Title
3 22, section 2601, subsection 8.

4 9. "Radioactive material" means any material containing or
5 emitting or otherwise releasing radiation or radioactivity at a
6 level dangerous to human life.

8 10. "Terroristic intent" means the intent to do any of the
9 following for the purpose of intimidating or coercing a civilian
10 population or to affect the conduct of government:

12 A. To use a weapon of mass destruction;

14 B. To cause serious bodily injury or death to multiple
15 human beings;

16 C. To cause substantial damage to multiple structures; or

18 D. To cause substantial damage to critical infrastructure.

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

26 A. Any poisonous substance or biological product of
27 biotechnology produced by a living organism; or

28 B. Any poisonous isomer or biological product, homolog or
29 derivative of such a substance.

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

36 13. "Weapon of mass destruction" means any device, object
37 or substance that is designed or that is intended by a person to
38 cause death or serious bodily injury to multiple human beings.
39 "Weapon of mass destruction" includes, but is not limited to, any
40 destructive device and any release, dissemination or impact
41 involving a biological agent, a chemical agent, toxin, vector or
42 radioactive material.

44 **§1072. Terrorism**

46 1. A person is guilty of terrorism if the person with
47 terroristic intent engages in conduct that in fact causes:

50 A. Serious bodily injury to another human being;

2 B. Substantial risk of serious bodily injury or death to
4 another human being;

6 C. Substantial damage to 3 or more structures, whether or
8 not occupied; or

10 D. Substantial physical damage sufficient to disrupt the
12 normal functioning of a critical infrastructure.

14 2. If terroristic acts take place in more than one venue
16 that are connected or that constitute part of a common scheme or
18 plan, prosecution may be brought in any one of them.

20 3. Terrorism is a Class A crime.

22 **§1073. Terroristic murder**

24 1. A person is guilty of terroristic murder if the person
26 with terroristic intent engages in conduct that in fact causes
28 the death of another human being.

30 2. For purposes of subsection 1, when the crime of
32 terroristic murder is charged, the crime of criminally negligent
34 manslaughter is deemed to be charged.

36 3. Notwithstanding section 1251, a person convicted of the
38 crime of terroristic murder must be sentenced to imprisonment for
40 life and committed to the Department of Corrections unless the
42 court, in employing the first and 2nd steps of the sentencing
44 process, determines that exceptional features of the case justify
46 instead the imposition of a definite period of imprisonment for
48 any term of years that is not less than 25. If such a
determination is made, the court shall specify the length of the
sentence to be served and commit the person to the Department of
Corrections.

4. For purposes of this section, the phrase "causes the
death of another human being" extends to the death of any
emergency service personnel or a member of the civilian
population responding to render aid in response to an act of
terrorism under section 1072 or an act of terroristic murder
under this section.

§1074. Criminal possession or use of weapon of mass destruction

1. A person is guilty of criminal possession or use of a
weapon of mass destruction if the person with terroristic intent
possesses, uses, trafficks, furnishes, imports, transports,

2 sends, stores, spills, disposes of or otherwise releases a weapon
3 of mass destruction.

4 2. As used in this section the following definitions apply.

6 A. "Furnishes" means to furnish, give, deliver or otherwise
7 transfer to another.

8 B. "Trafficks" means:

10 (1) To make, create or manufacture;

12 (2) To grow or cultivate; or

14 (3) To sell, barter, trade, exchange or otherwise
16 furnish for consideration.

18 3. Criminal possession or use of a weapon of mass
19 destruction is a Class A crime.

20 **§1075. Terrorism by threat**

22 1. A person is guilty of terrorism by threat if for the
24 purpose of intimidating or coercing a civilian population or to
25 affect the conduct of government the person knowingly threatens
26 to commit, or falsely claims to have committed, a violation of
27 section 1072 or 1073 or engages in conduct that would cause a
28 reasonable person to believe that a violation of section 1072 or
29 1073 has been committed or will be committed, including placement
30 of an imitation weapon of mass destruction in an area open to or
31 frequented by the public or in a public utility system.

32 2. It is no defense to a prosecution under this section
34 that the person did not have the capability of committing the
35 terroristic act.

36 3. Terrorism by threat is a Class B crime.

38 **SUMMARY**

40 This bill makes the following changes to the Maine Criminal
42 Code to address terrorism.

44 1. It amends the statute of limitations as it relates to
45 crimes involving terrorism.

46 2. It provides that a person is guilty of aggravated
48 attempted murder if that person commits attempted murder and, at

2 the time of that person's actions, the person's intent to kill
was accompanied by terroristic intent.

4 3. It amends the laws governing the crime of causing a
catastrophe.

6
8 4. It establishes the crimes of terrorism, terroristic
murder, criminal possession or use of a weapon of mass
destruction and terrorism by threat.