

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 18

H.P. 25

House of Representatives, January 14, 2003

### **An Act to Make Corrections to Laws in Conflict with MCJUSTIS Changes**

(EMERGENCY)

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Reported by Representative NORBERT of Portland for the Joint Standing Committee on Judiciary pursuant to Public Law 2001, chapter 383, section 155.

Reference to the Committee on Criminal Justice suggested and ordered printed under Joint Rule 218.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

2           **Emergency preamble.** Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

4  
6           **Whereas,** this Act makes corrections to statutory changes  
enacted by the 120th Legislature that are in conflict with  
changes recommended by the MCJUSTIS Policy Board and enacted in  
8 Public Law 2001, chapter 383; and

10           **Whereas,** these errors create uncertainties and confusion in  
interpreting legislative intent; and

12  
14           **Whereas,** it is imperative that these uncertainties be  
resolved as quickly as possible to prevent any injustice or  
hardship to the citizens of Maine; and

16  
18           **Whereas,** in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
20 necessary for the preservation of the public peace, health and  
safety; now, therefore,

22  
24           **Be it enacted by the People of the State of Maine as follows:**

26           **Sec. 1. 17-A MRSA §361, sub-§2,** as amended by PL 2001, c. 426,  
§1, is repealed.

28           **Sec. 2. 17-A MRSA §362, sub-§3-A,** as amended by PL 2001, c.  
426, §2, is repealed.

30           **Sec. 3. 17-A MRSA §708, sub-§4, ¶¶B to D,** as amended by PL  
32 2001, c. 389, §7, are repealed.

34           **Sec. 4. 17-A MRSA §1105-A, sub-§1, ¶¶I and J,** as enacted by PL  
2001, c. 667, Pt. D, §25 and affected by §36, are amended to read:

36           I. At the time of the offense, the person trafficks in 300  
38 or more pills, capsules, tablets, vials, ampules, syringes  
or units containing any narcotic drug other than heroin, or  
40 any quantity of pills, capsules, tablets, units, compounds,  
mixtures or substances that, in the aggregate, contains  
42 8,000 milligrams or more of oxycodone or 1,000 milligrams or  
more of hydromorphone. Violation of this paragraph is a  
44 Class A crime; or

46           J. At the time of the offense, the person trafficks in a  
quantity of 300 or more pills, capsules, tablets or units  
48 containing 3, 4-methylenedioxyamphetamine, MDMA, or any

2 other drug listed in section 1102, subsection 1, paragraph  
O. Violation of this paragraph is a Class A crime.

4 **Sec. 5. 17-A MRSA §1105-C, sub-§1, ¶¶I and J,** as enacted by PL  
2001, c. 667, Pt. D, §32 and affected by §36, are amended to read:

6  
8 I. At the time of the offense, the person furnishes 300 or  
10 more pills, capsules, tablets, vials, ampules, syringes or  
12 units containing any narcotic drug other than heroin, or any  
14 quantity of pills, capsules, tablets, units, compounds,  
mixtures or substances that, in the aggregate, contains  
8,000 milligrams or more of oxycodone or 1,000 milligrams or  
more of hydromorphone. Violation of this paragraph is a  
Class B crime; or

16 J. At the time of the offense, the person furnishes a  
18 quantity of 300 or more pills, capsules, tablets or units  
20 containing 3, 4-methylenedioxymethamphetamine, MDMA, or any  
other drug listed in section 1102, subsection 1, paragraph  
O. Violation of this paragraph is a Class B crime.

22 **Sec. 6. 17-A MRSA §1109, sub-§1,** as repealed and replaced by  
PL 2001, c. 667, Pt. D, §33 and affected by §36, is amended to  
24 read:

26 1. A person is guilty of stealing drugs if the person  
28 violates chapter 15, ~~sections~~ section 353, 355 or ~~356~~ 356-A  
knowing or believing that the subject of the theft is a scheduled  
30 drug, and it is in fact a scheduled drug, and the theft is from a  
person authorized to possess or traffick in that scheduled drug.

32 **Sec. 7. 17-A MRSA §1252, sub-§4-A,** as repealed and replaced by  
PL 2001, c. 667, Pt. A, §39 and affected by §40, is amended to  
34 read:

36 **4-A.** If the State pleads and proves that, at the time any  
38 crime, excluding murder, under chapter 9, 11, 13 or 27 was  
committed, the defendant had been convicted of 2 or more crimes  
40 violating chapter 9, 11, 13 or 27 or essentially similar crimes  
in other jurisdictions, the sentencing class for the crime is one  
42 class higher than it would otherwise be. In the case of a Class  
A crime, the sentencing class is not increased, but the prior  
44 record must be given serious consideration by the court when  
imposing a sentence. Section 9-A governs the use of prior  
46 convictions when determining a sentence, except that, for the  
purposes of this subsection, for violations under chapter 11, the  
dates of prior convictions may have occurred at any time.

