

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1241

H.P. 883

House of Representatives, March 8, 2007

### **An Act To Provide Uniform Treatment of Prior Convictions in the Maine Criminal Code**

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Reported by Representative GERZOFKY of Brunswick for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

2             **Sec. 1. 17-A MRSA §2, sub-§3-B** is enacted to read:

3             **3-B.** "Another jurisdiction" means the Federal Government, the United States  
4 military, the District of Columbia, the Commonwealth of Puerto Rico, the  
5 Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam,  
6 American Samoa and each of the several states except Maine. "Another jurisdiction" also  
7 means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section  
8 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has  
9 acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

10            **Sec. 2. 17-A MRSA §152-A, sub-§1, ¶C**, as enacted by PL 2001, c. 413, §2, is  
11 amended to read:

12            C. The person was previously convicted in this State or another jurisdiction of  
13 criminal homicide or any other crime involving the use of deadly force against a  
14 person;

15            **Sec. 3. 17-A MRSA §257, sub-§1, ¶D**, as enacted by PL 1995, c. 429, §2, is  
16 amended to read:

17            D. The offender has been previously convicted of a crime under chapter 11 or  
18 previously convicted ~~under the laws of the United States or any other state~~ in another  
19 jurisdiction for conduct substantially similar to that contained in chapter 11.

20            **Sec. 4. 17-A MRSA §282, sub-§1, ¶B**, as enacted by PL 2003, c. 711, Pt. B,  
21 §12, is amended to read:

22            B. The person violates paragraph A and, at the time of the offense, the person has  
23 one or more prior convictions ~~for violating under this section or for engaging in~~  
24 substantially similar conduct to that contained in this section in another jurisdiction.  
25 Violation of this paragraph is a Class A crime;

26            **Sec. 5. 17-A MRSA §282, sub-§1, ¶E**, as enacted by PL 2003, c. 711, Pt. B,  
27 §12, is amended to read:

28            E. The person violates paragraph D and, at the time of the offense, the person has  
29 one or more prior convictions ~~for violating under this section or for engaging in~~  
30 substantially similar conduct to that contained in this section in another jurisdiction.  
31 Violation of this paragraph is a Class A crime; or

32            **Sec. 6. 17-A MRSA §283, sub-§1, ¶B**, as enacted by PL 2003, c. 711, Pt. B,  
33 §12, is amended to read:

34            B. The person violates paragraph A and, at the time of the offense, has one or more  
35 prior convictions ~~for violating under this section or for engaging in~~ substantially  
36 similar conduct to that contained in this section in another jurisdiction. Violation of  
37 this paragraph is a Class B crime;

1       **Sec. 7. 17-A MRSA §283, sub-§1, ¶D**, as enacted by PL 2003, c. 711, Pt. B,  
2       §12, is amended to read:

3       D. The person violates paragraph C and, at the time of the offense, has one or more  
4       prior convictions ~~for violating under this section or for engaging in substantially~~  
5       similar conduct to that contained in this section in another jurisdiction. Violation of  
6       this paragraph is a Class A crime.

7       **Sec. 8. 17-A MRSA §284, sub-§1, ¶B**, as enacted by PL 2003, c. 711, Pt. B,  
8       §12, is amended to read:

9       B. Violates paragraph A and, at the time of the offense, has one or more prior  
10       convictions ~~for violating under this section or for engaging in substantially similar~~  
11       conduct to that contained in this section in another jurisdiction. Violation of this  
12       paragraph is a Class C crime;

13       **Sec. 9. 17-A MRSA §284, sub-§1, ¶D**, as enacted by PL 2003, c. 711, Pt. B,  
14       §12, is amended to read:

15       D. Violates paragraph C and, at the time of the offense, has one or more prior  
16       convictions ~~for violating under this section or for engaging in substantially similar~~  
17       conduct to that contained in this section in another jurisdiction. Violation of this  
18       paragraph is a Class B crime.

19       **Sec. 10. 17-A MRSA §353, sub-§1, ¶B**, as amended by PL 2005, c. 199, §4, is  
20       further amended to read:

21       B. The person violates paragraph A and:

22           (1) The value of the property is more than \$10,000. Violation of this  
23           subparagraph is a Class B crime;

24           (2) The property stolen is a firearm or an explosive device. Violation of this  
25           subparagraph is a Class B crime;

26           (3) The person is armed with a dangerous weapon at the time of the offense.  
27           Violation of this subparagraph is a Class B crime;

28           (4) The value of the property is more than \$1,000 but not more than \$10,000.  
29           Violation of this subparagraph is a Class C crime;

30           (5) The value of the property is more than \$500 but not more than \$1,000.  
31           Violation of this subparagraph is a Class D crime; or

32           (6) The person has 2 or more prior Maine convictions for any combination of the  
33           following Maine offenses listed in this subparagraph or for engaging in  
34           substantially similar conduct to that of the Maine offenses listed in this  
35           subparagraph in another jurisdiction. The Maine offenses are: theft; any  
36           violation of section 401 in which the crime intended to be committed inside the  
37           structure is theft; any violation of section 405 in which the crime intended to be  
38           committed inside the motor vehicle is theft; any violation of section 651; any  
39           violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these

1 crimes. Section 9-A governs the use of prior convictions when determining a  
2 sentence. Violation of this subparagraph is a Class C crime; or

3 **Sec. 11. 17-A MRSA §354, sub-§1, ¶B,** as amended by PL 2001, c. 667, Pt. D,  
4 §4 and affected by §36, is further amended to read:

5 B. The person violates paragraph A and:

6 (1) The value of the property is more than \$10,000. Violation of this  
7 subparagraph is a Class B crime;

8 (2) The property stolen is a firearm or an explosive device. Violation of this  
9 subparagraph is a Class B crime;

10 (3) The person is armed with a dangerous weapon at the time of the offense.  
11 Violation of this subparagraph is a Class B crime;

12 (4) The value of the property is more than \$1,000 but not more than \$10,000.  
13 Violation of this subparagraph is a Class C crime;

14 (5) The value of the property is more than \$500 but not more than \$1,000.  
15 Violation of this subparagraph is a Class D crime; or

16 (6) The person has 2 or more prior ~~Maine~~ convictions for any combination of the  
17 following Maine offenses listed in this subparagraph or for engaging in  
18 substantially similar conduct to that of the Maine offenses listed in this  
19 subparagraph in another jurisdiction. The Maine offenses are: theft; any  
20 violation of section 401 in which the crime intended to be committed inside the  
21 structure is theft; any violation of section 405 in which the crime intended to be  
22 committed inside the motor vehicle is theft; any violation of section 651; any  
23 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
24 crimes. Section 9-A governs the use of prior convictions when determining a  
25 sentence. Violation of this subparagraph is a Class C crime.

26 **Sec. 12. 17-A MRSA §354-A, sub-§1, ¶B,** as amended by PL 2001, c. 667, Pt.  
27 D, §5 and affected by §36, is further amended to read:

28 B. The person violates paragraph A and:

29 (1) The value of the property is more than \$10,000. Violation of this  
30 subparagraph is a Class B crime;

31 (2) The property stolen is a firearm or an explosive device. Violation of this  
32 subparagraph is a Class B crime;

33 (3) The person is armed with a dangerous weapon at the time of the offense.  
34 Violation of this subparagraph is a Class B crime;

35 (4) The value of the property is more than \$1,000 but not more than \$10,000.  
36 Violation of this subparagraph is a Class C crime;

37 (5) The value of the property is more than \$500 but not more than \$1,000.  
38 Violation of this subparagraph is a Class D crime; or

1 (6) The person has 2 or more prior ~~Maine~~ convictions for any combination of the  
2 following Maine offenses listed in this subparagraph or for engaging in  
3 substantially similar conduct to that of the Maine offenses listed in this  
4 subparagraph in another jurisdiction. The Maine offenses are: theft; any  
5 violation of section 401 in which the crime intended to be committed inside the  
6 structure is theft; any violation of section 405 in which the crime intended to be  
7 committed inside the motor vehicle is theft; any violation of section 651; any  
8 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
9 crimes. Section 9-A governs the use of prior convictions when determining a  
10 sentence. Violation of this subparagraph is a Class C crime.

11 **Sec. 13. 17-A MRSA §356-A, sub-§1, ¶B**, as amended by PL 2001, c. 667, Pt.  
12 D, §6 and affected by §36, is further amended to read:

13 B. The person violates paragraph A and:

14 (1) The value of the property is more than \$10,000. Violation of this  
15 subparagraph is a Class B crime;

16 (2) The property stolen is a firearm or an explosive device. Violation of this  
17 subparagraph is a Class B crime;

18 (3) The person is armed with a dangerous weapon at the time of the offense.  
19 Violation of this subparagraph is a Class B crime;

20 (4) The value of the property is more than \$1,000 but not more than \$10,000.  
21 Violation of this subparagraph is a Class C crime;

22 (5) The value of the property is more than \$500 but not more than \$1,000.  
23 Violation of this subparagraph is a Class D crime; or

24 (6) The person has 2 or more prior ~~Maine~~ convictions for any combination of the  
25 following Maine offenses listed in this subparagraph or for engaging in  
26 substantially similar conduct to that of the Maine offenses listed in this  
27 subparagraph in another jurisdiction. The Maine offenses are: theft; any  
28 violation of section 401 in which the crime intended to be committed inside the  
29 structure is theft; any violation of section 405 in which the crime intended to be  
30 committed inside the motor vehicle is theft; any violation of section 651; any  
31 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
32 crimes. Section 9-A governs the use of prior convictions when determining a  
33 sentence. Violation of this subparagraph is a Class C crime.

34 **Sec. 14. 17-A MRSA §357, sub-§1, ¶B**, as amended by PL 2001, c. 667, Pt. D,  
35 §7 and affected by §36, is further amended to read:

36 B. The person violates paragraph A and:

37 (1) The value of the services is more than \$10,000. Violation of this  
38 subparagraph is a Class B crime;

39 (2) The person is armed with a dangerous weapon at the time of the offense.  
40 Violation of this subparagraph is a Class B crime;

1 (3) The value of the services is more than \$1,000 but not more than \$10,000.  
2 Violation of this subparagraph is a Class C crime;

3 (4) The value of the services is more than \$500 but not more than \$1,000.  
4 Violation of this subparagraph is a Class D crime; or

5 (5) The person has 2 or more prior ~~Maine~~ convictions for any combination of the  
6 following Maine offenses listed in this subparagraph or for engaging in  
7 substantially similar conduct to that of the Maine offenses listed in this  
8 subparagraph in another jurisdiction. The Maine offenses are: theft; any  
9 violation of section 401 in which the crime intended to be committed inside the  
10 structure is theft; any violation of section 405 in which the crime intended to be  
11 committed inside the motor vehicle is theft; any violation of section 651; any  
12 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
13 crimes. Section 9-A governs the use of prior convictions when determining a  
14 sentence. Violation of this subparagraph is a Class C crime.

15 **Sec. 15. 17-A MRSA §357, sub-§2, ¶B**, as amended by PL 2001, c. 667, Pt. D,  
16 §8 and affected by §36, is further amended to read:

17 B. The person violates paragraph A and:

18 (1) The value of the services is more than \$10,000. Violation of this  
19 subparagraph is a Class B crime;

20 (2) That person is armed with a dangerous weapon at the time of the offense.  
21 Violation of this subparagraph is a Class B crime;

22 (3) The value of the services is more than \$1,000 but not more than \$10,000.  
23 Violation of this subparagraph is a Class C crime;

24 (4) The value of the services is more than \$500 but not more than \$1,000.  
25 Violation of this subparagraph is a Class D crime; or

26 (5) The person has 2 or more prior ~~Maine~~ convictions for any combination of the  
27 following Maine offenses listed in this subparagraph or for engaging in  
28 substantially similar conduct to that of the Maine offenses listed in this  
29 subparagraph in another jurisdiction. The Maine offenses are: theft; any  
30 violation of section 401 in which the crime intended to be committed inside the  
31 structure is theft; any violation of section 405 in which the crime intended to be  
32 committed inside the motor vehicle is theft; any violation of section 651; any  
33 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
34 crimes. Section 9-A governs the use of prior convictions when determining a  
35 sentence. Violation of this subparagraph is a Class C crime.

36 **Sec. 16. 17-A MRSA §358, sub-§1, ¶B**, as amended by PL 2001, c. 667, Pt. D,  
37 §9 and affected by §36, is further amended to read:

38 B. The person violates paragraph A and:

39 (1) The value of the property is more than \$10,000. Violation of this  
40 subparagraph is a Class B crime;

- 1 (2) The property stolen is a firearm or an explosive device. Violation of this  
2 subparagraph is a Class B crime;
- 3 (3) The person is armed with a dangerous weapon at the time of the offense.  
4 Violation of this subparagraph is a Class B crime;
- 5 (4) The value of the property is more than \$2,000 and the person is a payroll  
6 processor. Violation of this paragraph is a Class B crime;
- 7 (5) The value of the property is more than \$1,000 but not more than \$10,000.  
8 Violation of this subparagraph is a Class C crime;
- 9 (6) The value of the property is more than \$500 but not more than \$1,000.  
10 Violation of this subparagraph is a Class D crime;
- 11 (7) The value of the property is more than \$1,000 but not more than \$2,000 and  
12 the person is a payroll processor. Violation of this subparagraph is a Class C  
13 crime;
- 14 (8) The person is a payroll processor and has 2 or more prior ~~Maine~~ convictions  
15 for any combination of the following Maine offenses listed in this subparagraph  
16 or for engaging in substantially similar conduct to that of the Maine offenses  
17 listed in this subparagraph in another jurisdiction. The Maine offenses are: theft;  
18 any violation of section 401 in which the crime intended to be committed inside  
19 the structure is theft; any violation of section 405 in which the crime intended to  
20 be committed inside the motor vehicle is theft; any violation of section 651; any  
21 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
22 crimes. Section 9-A governs the use of prior convictions when determining a  
23 sentence. Violation of this subparagraph is a Class B crime; or
- 24 (9) The person has 2 or more prior ~~Maine~~ convictions for any combination of the  
25 following Maine offenses listed in this subparagraph or for engaging in  
26 substantially similar conduct to that of the Maine offenses listed in this  
27 subparagraph in another jurisdiction. The Maine offenses are: theft; any  
28 violation of section 401 in which the crime intended to be committed inside the  
29 structure is theft; any violation of section 405 in which the crime intended to be  
30 committed inside the motor vehicle is theft; any violation of section 651; any  
31 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
32 crimes. Section 9-A governs the use of prior convictions when determining a  
33 sentence. Violation of this subparagraph is a Class C crime.

34 **Sec. 17. 17-A MRSA §359, sub-§1, ¶B,** as amended by PL 2001, c. 667, Pt. D,  
35 §10 and affected by §36, is further amended to read:

36 B. The person violates paragraph A and:

- 37 (1) The value of the property is more than \$10,000. Violation of this  
38 subparagraph is a Class B crime;
- 39 (2) The property stolen is a firearm or an explosive device. Violation of this  
40 subparagraph is a Class B crime;



1 (3) The person is armed with a dangerous weapon at the time of the offense.  
2 Violation of this subparagraph is a Class B crime;  
3 (4) The value of the property is more than \$1,000 but not more than \$10,000.  
4 Violation of this subparagraph is a Class C crime;  
5 (5) The value of the property is more than \$500 but not more than \$1,000.  
6 Violation of this subparagraph is a Class D crime; or  
7 (6) The person has 2 or more prior ~~Maine~~ convictions for any combination of the  
8 ~~following~~ Maine offenses listed in this subparagraph or for engaging in  
9 substantially similar conduct to that of the Maine offenses listed in this  
10 subparagraph in another jurisdiction. The Maine offenses are: theft; any  
11 violation of section 401 in which the crime intended to be committed inside the  
12 structure is theft; any violation of section 405 in which the crime intended to be  
13 committed inside the motor vehicle is theft; any violation of section 651; any  
14 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
15 crimes. Section 9-A governs the use of prior convictions when determining a  
16 sentence. Violation of this subparagraph is a Class C crime.

17 **Sec. 18. 17-A MRSA §360, sub-§1, ¶A-1**, as enacted by PL 2003, c. 510, Pt. C,  
18 §4, is amended to read:

19 A-1. The person violates paragraph A and the person has 2 or more prior ~~Maine~~  
20 convictions for any combination of the ~~following~~ Maine offenses listed in this  
21 paragraph or for engaging in substantially similar conduct to that of the Maine  
22 offenses listed in this paragraph in another jurisdiction. The Maine offenses are:  
23 theft; any violation of section 401 in which the crime intended to be committed inside  
24 the structure is theft; any violation of section 405 in which the crime intended to be  
25 committed inside the motor vehicle is theft; any violation of section 651; any  
26 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
27 crimes. Section 9-A governs the use of prior convictions when determining a  
28 sentence. Violation of this paragraph is a Class C crime;

29 **Sec. 19. 17-A MRSA §360, sub-§1, ¶B-1**, as enacted by PL 2003, c. 510, Pt. C,  
30 §4, is amended to read:

31 B-1. The person violates paragraph B and the person has 2 or more prior ~~Maine~~  
32 convictions for any combination of the ~~following~~ Maine offenses listed in this  
33 paragraph or for engaging in substantially similar conduct to that of the Maine  
34 offenses listed in this paragraph in another jurisdiction. The Maine offenses are:  
35 theft; any violation of section 401 in which the crime intended to be committed inside  
36 the structure is theft; any violation of section 405 in which the crime intended to be  
37 committed inside the motor vehicle is theft; any violation of section 651; any  
38 violation of section 702, 703 or 708; or attempts ~~thereat~~ to commit any of these  
39 crimes. Section 9-A governs the use of prior convictions when determining a  
40 sentence. Violation of this paragraph is a Class C crime;

41 **Sec. 20. 17-A MRSA §360, sub-§1, ¶D**, as enacted by PL 2003, c. 510, Pt. C,  
42 §4, is amended to read:

1 D. The person violates paragraph C and the person has 2 or more prior ~~Maine~~  
2 convictions for any combination of the ~~following Maine offenses listed in this~~  
3 ~~paragraph or for engaging in substantially similar conduct to that of the Maine~~  
4 ~~offenses listed in this paragraph in another jurisdiction. The Maine offenses are:~~  
5 theft; any violation of section 401 in which the crime intended to be committed inside  
6 the structure is theft; any violation of section 405 in which the crime intended to be  
7 committed inside the motor vehicle is theft; any violation of section 651; any  
8 violation of section 702, 703 or 708; or attempts ~~thereat to commit any of these~~  
9 ~~crimes~~. Section 9-A governs the use of prior convictions when determining a  
10 sentence. Violation of this paragraph is a Class C crime.

11 **Sec. 21. 17-A MRSA §401, sub-§1, ¶B**, as enacted by PL 2001, c. 383, §53 and  
12 affected by §156, is amended to read:

13 B. The person violates paragraph A and:

14 (1) The person is armed with a firearm, or knows that an accomplice is so armed.  
15 Violation of this subparagraph is a Class A crime;

16 (2) The person intentionally or recklessly inflicts or attempts to inflict bodily  
17 injury on anyone during the commission of the burglary or an attempt to commit  
18 the burglary or in immediate flight after the commission or attempt. Violation of  
19 this subparagraph is a Class B crime;

20 (3) The person is armed with a dangerous weapon other than a firearm or knows  
21 that an accomplice is so armed. Violation of this subparagraph is a Class B  
22 crime;

23 (4) The violation is against a structure that is a dwelling place. Violation of this  
24 subparagraph is a Class B crime; or

25 (5) At the time of the burglary, the person has 2 or more prior ~~Class A, B or C~~  
26 convictions for any combination of the Maine Class A, B or C offenses listed in  
27 this subparagraph or for engaging in substantially similar conduct to that of the  
28 Maine offenses listed in this subparagraph in another jurisdiction. The Maine  
29 offenses are: theft; any violation of this section or section 651, 702 or 703; or  
30 attempts to commit any of ~~these~~ these crimes. Section 9-A governs the use of  
31 prior convictions when determining a sentence. Violation of this subparagraph is  
32 a Class B crime.

33 **Sec. 22. 17-A MRSA §402-A, sub-§1, ¶B**, as amended by PL 2001, c. 383, §59  
34 and affected by §156, is further amended to read:

35 B. At the time of the offense, the person has 2 or more prior convictions for any  
36 combination of the Maine offenses listed in this paragraph or for engaging in  
37 substantially similar conduct to that of the Maine offenses listed in this paragraph in  
38 another jurisdiction. The Maine offenses are: burglary in a dwelling place or criminal  
39 trespass in a dwelling place. Section 9-A governs the use of prior convictions when  
40 determining a sentence.

41 **Sec. 23. 17-A MRSA §506-A, sub-§1, ¶B**, as enacted by PL 2001, c. 383, §66  
42 and affected by §156, is amended to read:

1 B. The person violates paragraph A and, at the time of the harassment, the person has  
2 2 or more prior Maine convictions ~~for violations of~~ under this section in which the  
3 victim was the same person or a member of that victim's immediate family ~~or for~~  
4 engaging in substantially similar conduct to that contained in this paragraph in  
5 another jurisdiction. Section 9-A governs the use of prior convictions when  
6 determining a sentence. Violation of this paragraph is a Class C crime.

7 **Sec. 24. 17-A MRSA §554-B, sub-§5, ¶B,** as enacted by PL 2003, c. 188, §2, is  
8 amended to read:

9 B. A person who violates this section and, at the time of the offense, has a one or  
10 more prior conviction ~~convictions for unlawfully transferring a handgun to a minor~~  
11 ~~commits a Class C crime~~ under this section or for engaging in substantially similar  
12 conduct to that contained in this section in another jurisdiction. Section 9-A governs  
13 the use of prior convictions when determining a sentence. Violation of this paragraph  
14 is a Class C crime.

15 **Sec. 25. 17-A MRSA §556, sub-§1, ¶B,** as enacted by PL 2001, c. 383, §70 and  
16 affected by §156, is amended to read:

17 B. Violates paragraph A and, at the time of the incest, the person has 2 or more prior  
18 Maine convictions ~~for violations of~~ under this section ~~or for engaging in substantially~~  
19 ~~similar conduct to that contained in this section in another jurisdiction.~~ Section 9-A  
20 governs the use of prior convictions when determining a sentence. Violation of this  
21 paragraph is a Class C crime.

22 **Sec. 26. 17-A MRSA §703, sub-§1, ¶A-1,** as amended by PL 2001, c. 667, Pt.  
23 D, §13 and affected by §36, is further amended to read:

24 A-1. The person violates paragraph A and:

25 (1) The face value of the written instrument or the aggregate value of the  
26 instruments is more than \$10,000. Violation of this subparagraph is a Class B  
27 crime;

28 (2) The face value of the written instrument or the aggregate value of the  
29 instruments is more than \$1,000 but not more than \$10,000. Violation of this  
30 subparagraph is a Class C crime; or

31 (3) At the time of the forgery, the person has 2 or more prior convictions for any  
32 combination of the ~~following~~ Maine offenses listed in this subparagraph or for  
33 engaging in substantially similar conduct to that of the Maine offenses listed in  
34 this subparagraph in another jurisdiction. The Maine offenses are: theft;  
35 ~~violation or attempted~~ any violation of this section; any violation or attempted  
36 ~~violation~~ of section 401 if in which the intended crime within intended to be  
37 committed inside the structure is theft; any violation of section 405 in which the  
38 crime intended to be committed inside the motor vehicle is theft; any violation or  
39 ~~attempted violation~~ of section 651; or any violation or attempted violation of  
40 section 702 or 708; or attempts to commit any of these crimes. Section 9-A  
41 governs the use of prior convictions when determining a sentence. Violation of  
42 this subparagraph is a Class C crime;

1       **Sec. 27. 17-A MRSA §703, sub-§1, ¶B-1**, as amended by PL 2001, c. 667, Pt.  
2 D, §13 and affected by §36, is further amended to read:

3       B-1. The person violates paragraph B and:

4           (1) The face value of the written instrument or the aggregate value of the  
5 instruments is more than \$10,000. Violation of this subparagraph is a Class B  
6 crime;

7           (2) The face value of the written instrument or the aggregate value of the  
8 instruments is more than \$1,000 but not more than \$10,000. Violation of this  
9 subparagraph is a Class C crime; or

10          (3) At the time of the forgery, the person has 2 or more prior convictions for any  
11 combination of the ~~following~~ Maine offenses listed in this subparagraph or for  
12 engaging in substantially similar conduct to that of the Maine offenses listed in  
13 this subparagraph in another jurisdiction. The Maine offenses are: theft;  
14 ~~violation or attempted~~ any violation of this section; any violation or attempted  
15 ~~violation~~ of section 401 if in which the intended crime within intended to be  
16 committed inside the structure is theft; any violation of section 405 in which the  
17 crime intended to be committed inside the motor vehicle is theft; any violation or  
18 ~~attempted violation~~ of section 651; or any violation or attempted violation of  
19 section 702 or 708; or attempts to commit any of these crimes. Section 9-A  
20 governs the use of prior convictions when determining a sentence. Violation of  
21 this subparagraph is a Class C crime.

22       **Sec. 28. 17-A MRSA §708, sub-§1, ¶B**, as amended by PL 2001, c. 667, Pt. D,  
23 §15 and affected by §36, is further amended to read:

24       B. The person violates paragraph A and:

25           (1) The face value of the written instrument or the aggregate value of the  
26 instruments is more than \$10,000. Violation of this subparagraph is a Class B  
27 crime;

28           (2) The face value of the written instrument or the aggregate value of the  
29 instruments is more than \$1,000 but not more than \$10,000. Violation of this  
30 subparagraph is a Class C crime;

31           (3) The face value of the negotiable instrument is more than \$500 but not more  
32 than \$1,000. Violation of this subparagraph is a Class D crime; or

33           (4) At the time of negotiating a worthless instrument, the person has 2 or more  
34 prior convictions for any combination of the ~~following~~ Maine offenses listed in  
35 this subparagraph or for engaging in substantially similar conduct to that of the  
36 Maine offenses listed in this subparagraph in another jurisdiction. The Maine  
37 offenses are: theft; violation or attempted ~~any violation of this section; any~~  
38 ~~violation or attempted~~ violation of section 401 if in which the intended crime  
39 ~~within intended to be committed inside the structure is theft; any violation of~~  
40 section 405 in which the crime intended to be committed inside the motor vehicle  
41 is theft; any violation or attempted violation of section 651; or any violation or  
42 ~~attempted violation~~ of section 702 or 708 703; or attempts to commit any of these

1           ~~crimes.~~ Section 9-A governs the use of prior convictions when determining a  
2 sentence. Violation of this subparagraph is a Class C crime.

3           **Sec. 29. 17-A MRSA §853-A, sub-§1, ¶B,** as enacted by PL 2001, c. 383, §99  
4 and affected by §156, is amended to read:

5           B. The person violates paragraph A and, at the time of the offense, the person has  
6 one or more prior ~~conviction for engaging in prostitution~~ convictions under this  
7 section or for engaging in substantially similar conduct to that contained in this  
8 section in another jurisdiction. Section 9-A governs the use of prior convictions  
9 when determining a sentence, except that, for the purposes of this paragraph, the date  
10 of the prior conviction may not precede the commission of the offense by more than 2  
11 years. Violation of this paragraph is a Class D crime.

12           **Sec. 30. 17-A MRSA §853-B, sub-§1, ¶B,** as enacted by PL 2001, c. 383, §102  
13 and affected by §156, is amended to read:

14           B. The person violates paragraph A and, at the time of the offense, the person has  
15 one or more prior ~~conviction for engaging a prostitute~~ convictions under this section  
16 or for engaging in substantially similar conduct to that contained in this section in  
17 another jurisdiction. Section 9-A governs the use of prior convictions when  
18 determining a sentence, except that, for the purposes of this paragraph, the date of the  
19 prior conviction may not precede the commission of the offense by more than 2  
20 years. Violation of this paragraph is a Class D crime.

21           **Sec. 31. 17-A MRSA §854, sub-§1, ¶A,** as amended by PL 2001, c. 383, §105  
22 and affected by §156, is further amended to read:

23           A. In a public place:

24               (1) The actor engages in a sexual act, as defined in section 251. Violation of this  
25 subparagraph is a Class E crime;

26               (2) The actor knowingly exposes the actor's genitals under circumstances that in  
27 fact are likely to cause affront or alarm. Violation of this subparagraph is a Class  
28 E crime;

29               (3) The actor violates subparagraph (1) and the actor has 2 or more prior  
30 convictions for ~~violation of any combination of the following:~~ violating this  
31 section or section 256 or for engaging in substantially similar conduct to that of  
32 the Maine offenses listed in this subparagraph in another jurisdiction. Section 9-  
33 A governs the use of prior convictions when determining a sentence. Violation  
34 of this subparagraph is a Class D crime; or

35               (4) The actor violates subparagraph (2) and the actor has 2 or more prior  
36 convictions for ~~violation of any combination of the following:~~ violating this  
37 section or section 256 or for engaging in substantially similar conduct to that of  
38 the Maine offenses listed in this subparagraph in another jurisdiction. Section 9-  
39 A governs the use of prior convictions when determining a sentence. Violation  
40 of this subparagraph is a Class D crime;

1       **Sec. 32. 17-A MRSA §854, sub-§1, ¶D**, as enacted by PL 2001, c. 383, §105  
2 and affected by §156, is amended to read:

3       D. The actor violates paragraph B and the actor has 2 or more prior convictions for  
4 ~~violation of any combination of the following: violating this section or section 256 or~~  
5 ~~for engaging in substantially similar conduct to that of the Maine offenses listed in~~  
6 ~~this paragraph in another jurisdiction.~~ Section 9-A governs the use of prior  
7 convictions when determining a sentence. Violation of this paragraph is a Class D  
8 crime; or

9       **Sec. 33. 17-A MRSA §854, sub-§1, ¶E**, as enacted by PL 2001, c. 383, §105  
10 and affected by §156, is amended to read:

11       E. The actor violates paragraph C and the actor has 2 or more prior convictions for  
12 ~~violation of any combination of the following: violating this section or section 256 or~~  
13 ~~for engaging in substantially similar conduct to that of the Maine offenses listed in~~  
14 ~~this paragraph in another jurisdiction.~~ Section 9-A governs the use of prior  
15 convictions when determining a sentence. Violation of this paragraph is a Class D  
16 crime.

17       **Sec. 34. 17-A MRSA §908, sub-§1, ¶F**, as enacted by PL 2001, c. 383, §110 and  
18 affected by §156, is amended to read:

19       F. Violates paragraph A and the person has 2 or more prior ~~Maine~~ convictions ~~for~~  
20 ~~violation of under this section or for engaging in substantially similar conduct to that~~  
21 ~~contained in this section in another jurisdiction.~~ Section 9-A governs the use of prior  
22 convictions when determining a sentence. Violation of this paragraph is a Class C  
23 crime;

24       **Sec. 35. 17-A MRSA §908, sub-§1, ¶G**, as enacted by PL 2001, c. 383, §110  
25 and affected by §156, is amended to read:

26       G. Violates paragraph B and the person has 2 or more prior ~~Maine~~ convictions ~~for~~  
27 ~~violation of under this section or for engaging in substantially similar conduct to that~~  
28 ~~contained in this section in another jurisdiction.~~ Section 9-A governs the use of prior  
29 convictions when determining a sentence. Violation of this paragraph is a Class C  
30 crime;

31       **Sec. 36. 17-A MRSA §908, sub-§1, ¶H**, as enacted by PL 2001, c. 383, §110  
32 and affected by §156, is amended to read:

33       H. Violates paragraph C and the person has 2 or more prior ~~Maine~~ convictions ~~for~~  
34 ~~violation of under this section or for engaging in substantially similar conduct to that~~  
35 ~~contained in this section in another jurisdiction.~~ Section 9-A governs the use of prior  
36 convictions when determining a sentence. Violation of this paragraph is a Class C  
37 crime;

38       **Sec. 37. 17-A MRSA §908, sub-§1, ¶I**, as enacted by PL 2001, c. 383, §110 and  
39 affected by §156, is amended to read:

1 I. Violates paragraph D and the person has 2 or more prior ~~Maine~~ convictions for  
2 ~~violation of under this section or for engaging in substantially similar conduct to that~~  
3 ~~contained in this section in another jurisdiction.~~ Section 9-A governs the use of prior  
4 convictions when determining a sentence. Violation of this paragraph is a Class C  
5 crime; or

6 **Sec. 38. 17-A MRSA §908, sub-§1, ¶J**, as enacted by PL 2001, c. 383, §110 and  
7 affected by §156, is amended to read:

8 J. Violates paragraph E and the person has 2 or more prior ~~Maine~~ convictions for  
9 ~~violation of under this section or for engaging in substantially similar conduct to that~~  
10 ~~contained in this section in another jurisdiction.~~ Section 9-A governs the use of prior  
11 convictions when determining a sentence. Violation of this paragraph is a Class C  
12 crime.

13 **Sec. 39. 17-A MRSA §1105-A, sub-§1, ¶B**, as enacted by PL 2001, c. 383,  
14 §119 and affected by §156, is amended to read:

15 B. At the time of the offense, the person has ~~been convicted of an offense under this~~  
16 ~~chapter punishable by a term of imprisonment of more than one year or under any~~  
17 ~~law of the United States, of another state or of a foreign country relating to scheduled~~  
18 ~~drugs, as defined in this chapter, and punishable by a term of imprisonment of more~~  
19 ~~than one year~~ one or more prior convictions for any Class A, B or C offense under  
20 this chapter or for engaging in substantially similar conduct to that of the Class A, B  
21 or C offenses under this chapter in another jurisdiction and the drug is:

22 (1) A schedule W drug. Violation of this subparagraph is a Class A crime;

23 (2) Marijuana in a quantity of 20 pounds or more. Violation of this  
24 subparagraph is a Class A crime;

25 (3) A schedule X drug. Violation of this subparagraph is a Class B crime;

26 (4) Marijuana in a quantity of more than one pound. Violation of this  
27 subparagraph is a Class B crime;

28 (5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

29 (6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

30 Section 9-A governs the use of prior convictions when determining a sentence, except  
31 that, for the purposes of this paragraph, the date of each prior conviction may precede  
32 the commission of the offense being enhanced by more than 10 years;

33 **Sec. 40. 17-A MRSA §1105-B, sub-§1, ¶B**, as amended by PL 2003, c. 476, §3,  
34 is further amended to read:

35 B. At the time of the offense, the person has ~~been convicted of any offense under this~~  
36 ~~chapter punishable by a term of imprisonment of more than one year or under any~~  
37 ~~law of the United States, of another state or of a foreign country relating to scheduled~~  
38 ~~drugs or counterfeit drugs, as defined in this chapter, and punishable by a term of~~  
39 ~~imprisonment of more than one year~~ one or more prior convictions for any Class A, B  
40 or C offense under this chapter or for engaging in substantially similar conduct to that

1 of the Class A, B or C offenses under this chapter in another jurisdiction. Section 9-  
2 A governs the use of prior convictions when determining a sentence, except that, for  
3 the purposes of this paragraph, the date of each prior conviction may precede the  
4 commission of the offense being enhanced by more than 10 years;

5 **Sec. 41. 17-A MRSA §1105-C, sub-§1, ¶B**, as enacted by PL 2001, c. 383,  
6 §119 and affected by §156, is further amended to read:

7 B. At the time of the offense, the person has ~~been convicted of any offense under this~~  
8 ~~chapter punishable by a term of imprisonment of more than one year or under any~~  
9 ~~law of the United States, of another state or of a foreign country relating to scheduled~~  
10 ~~drugs, as defined in this chapter, and punishable by a term of imprisonment of more~~  
11 ~~than one year~~ one or more prior convictions for any Class A, B or C offense under  
12 this chapter or for engaging in substantially similar conduct to that of the Class A, B  
13 or C offenses under this chapter in another jurisdiction and the drug is:

- 14 (1) A schedule W drug. Violation of this subparagraph is a Class B crime;
- 15 (2) A schedule X drug. Violation of this subparagraph is a Class C crime;
- 16 (3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or
- 17 (4) A schedule Z drug. Violation of this subparagraph is a Class C crime.

18 Section 9-A governs the use of prior convictions when determining a sentence, except  
19 that, for the purposes of this paragraph, the date of each prior conviction may precede  
20 the commission of the offense being enhanced by more than 10 years;

21 **Sec. 42. 17-A MRSA §1105-D, sub-§1, ¶A**, as enacted by PL 2001, c. 383,  
22 §119 and affected by §156, is amended to read:

23 A. At the time of the offense, the person has ~~been convicted of any offense under this~~  
24 ~~chapter punishable by a term of imprisonment of more than one year or under any~~  
25 ~~law of the United States, of another state or of a foreign country relating to scheduled~~  
26 ~~drugs, as defined in this chapter, and punishable by a term of imprisonment of more~~  
27 ~~than one year~~ one or more prior convictions for any Class A, B or C offense under  
28 this chapter or for engaging in substantially similar conduct to that of the Class A, B  
29 or C offenses under this chapter in another jurisdiction and the person grows or  
30 cultivates:

- 31 (1) Five hundred or more marijuana plants. Violation of this subparagraph is a  
32 Class A crime;
- 33 (2) One hundred or more but fewer than 500 marijuana plants. Violation of this  
34 subparagraph is a Class B crime;
- 35 (3) More than 5 but fewer than 100 marijuana plants. Violation of this  
36 subparagraph is a Class C crime; or
- 37 (4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D  
38 crime.



1 Section 9-A governs the use of prior convictions when determining a sentence, except  
2 that, for the purposes of this paragraph, the date of each prior conviction may precede  
3 the commission of the offense being enhanced by more than 10 years;

4 **Sec. 43. 17-A MRSA §1107-A, sub-§1, ¶B**, as amended by PL 2005, c. 442, §1,  
5 is further amended to read:

6 B. A schedule W drug that is:

7 (1) Heroin (diacetylmorphine);

8 (2) Cocaine in the form of cocaine base and at the time of the offense the person  
9 has ~~been convicted of one or more prior convictions~~ for any offense under this  
10 chapter or ~~under any law of the United States, another state or a foreign country~~  
11 ~~relating to scheduled drugs, as defined in this chapter for engaging in~~  
12 ~~substantially similar conduct to that of the Maine offenses under this chapter in~~  
13 ~~another jurisdiction~~. For the purposes of this paragraph, a person has been  
14 convicted of an offense on the date the judgment of conviction was entered by the  
15 court;

16 (3) Methamphetamine;

17 (4) Oxycodone;

18 (5) Hydrocodone; or

19 (6) Hydromorphone.

20 Violation of this paragraph is a Class C crime;

21 **Sec. 44. 17-A MRSA §1111-A, sub-§3, ¶B**, as enacted by PL 1981, c. 266, is  
22 amended to read:

23 B. ~~Prior~~ One or more prior convictions, if any, of an owner, or of anyone in control  
24 of the object, ~~under any state or federal law relating to any scheduled drug for any~~  
25 ~~offense under this chapter or for engaging in substantially similar conduct to that of~~  
26 ~~the Maine offenses under this chapter in another jurisdiction;~~

27 **Sec. 45. 17-A MRSA §1252, sub-§4-A**, as amended by PL 2005, c. 527, §18, is  
28 further amended to read:

29 **4-A.** If the State pleads and proves that, at the time any crime, excluding murder,  
30 under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A  
31 or 752-C was committed, the defendant had ~~been convicted of 2 or more crimes violating~~  
32 ~~prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A;~~  
33 ~~or section 752-A or 752-C or essentially for engaging in substantially similar crimes~~  
34 ~~conduct in other jurisdictions~~ another jurisdiction, the sentencing class for the crime is  
35 one class higher than it would otherwise be. In the case of a Class A crime, the  
36 sentencing class is not increased, but the prior record must be given serious consideration  
37 by the court when imposing a sentence. Section 9-A governs the use of prior convictions  
38 when determining a sentence, except that, for the purposes of this subsection, for  
39 violations under chapter 11, the dates of prior convictions may have occurred at any time.  
40 This subsection does not apply to section 210-A if the prior convictions have already

1 served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or  
2 any other offense in which prior convictions have already served to enhance the  
3 sentencing class.

4 **Sec. 46. 17-A MRSA §1252, sub-§4-B**, as amended by PL 2005, c. 527, §19, is  
5 further amended to read:

6 **4-B.** If the State pleads and proves that the defendant is a repeat sexual assault  
7 offender, the court, notwithstanding subsection 2, may set a definite period of  
8 imprisonment for any term of years.

9 A. As used in this section, "repeat sexual assault offender" means a person who  
10 commits a new gross sexual assault after having been convicted previously and  
11 sentenced for any of the following:

12 (1) Gross sexual assault, formerly denominated as gross sexual misconduct;

13 (2) Rape;

14 (3) Attempted murder accompanied by sexual assault;

15 (4) Murder accompanied by sexual assault; or

16 (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or

17 (4) that is a crime under the laws of ~~the United States or any other state~~ another  
18 jurisdiction.

19 The date of sentencing is the date of the oral pronouncement of the sentence by the  
20 trial court, even if an appeal is taken.

21 B. "Accompanied by sexual assault" as used with respect to attempted murder,  
22 murder and crimes involving substantially similar conduct in ~~other jurisdictions~~  
23 another jurisdiction is satisfied if it was definitionally an element of the crime or was  
24 pleaded and proved beyond a reasonable doubt at trial by the State or ~~other~~ another  
25 jurisdiction.

## 26 SUMMARY

27 This bill is proposed by the Criminal Law Advisory Commission. The bill adds a  
28 definition for "another jurisdiction" in subsection 3-B of section 2 of the Maine Criminal  
29 Code, so that this term has consistent meaning throughout the code. "Another  
30 jurisdiction" means the Federal Government, the United States military, the District of  
31 Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern  
32 Mariana Islands, the United States Virgin Islands, Guam, American Samoa, the  
33 Passamaquoddy Tribe and the Penobscot Nation when a tribe has acted pursuant to the  
34 Maine Revised Statutes, Title 30, section 6209-A, subsection 1, paragraph A or B and  
35 Title 30, section 6209-B, subsection 1, paragraph A or B, respectively. "Another  
36 jurisdiction" does not include any foreign country. The bill also amends various crimes  
37 and sentencing provisions by replacing inconsistent terminology with the new term  
38 "another jurisdiction."

1       Without modifying either the number of prior convictions currently required or the  
2 currently qualifying Maine convictions, the bill amends various crimes and sentencing  
3 provisions so that prior convictions uniformly include both the specifically identified  
4 Maine convictions as well as convictions for engaging in substantially similar conduct in  
5 another jurisdiction.

6       The bill replaces in numerous Title 17-A, chapter 45 drug provisions "convicted of an  
7 offense under this chapter punishable by a term of imprisonment of more than one year"  
8 with "one or more prior convictions for a Class A, B or C offense under this chapter" to  
9 clarify that the qualifying Maine chapter 45 convictions include Class C crimes. The bill  
10 also replaces in numerous chapter 45 provisions "convicted of an offense under any law  
11 of the United States, of another state or of a foreign country relating to scheduled drugs,  
12 as defined by this chapter, and punishable by a term of imprisonment of more than one  
13 year" with "convicted of engaging in substantially similar conduct to that of the Class A,  
14 B or C offenses under this chapter or another jurisdiction."