

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## SECOND REGULAR SESSION-2008

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Legislative Document

No. 1999

S.P. 793

December 18, 2007

**An Act To Amend Criminal Laws against Domestic Violence To  
Ensure Appropriate Recognition of Prior Convictions**

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Secretary of the Senate on December 18, 2007. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by President EDMONDS of Cumberland.

Cosponsored by Representative SIMPSON of Auburn and Senators: BENOIT of Sagadahoc, DIAMOND of Cumberland, HOBBS of York, McCORMICK of Kennebec, Representatives: BERRY of Bowdoinham, Speaker CUMMINGS of Portland, FLOOD of Winthrop, GERZOFKY of Brunswick, HASKELL of Portland, PERCY of Phippsburg, STRANG BURGESS of Cumberland.

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

3       **Whereas,** Public Law 2007, chapter 436 created the crimes of domestic violence  
4 assault, domestic violence criminal threatening, domestic violence terrorizing, domestic  
5 violence stalking and domestic violence reckless conduct; and

6       **Whereas,** each of the domestic violence crimes carries an enhanced penalty if  
7 committed more than once; and

8       **Whereas,** this legislation clarifies that the enhanced penalty applies if the person  
9 commits a domestic violence crime created in chapter 436 after having been convicted of  
10 the crime of assault, criminal threatening, terrorizing or reckless conduct against a family  
11 or household member; and

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

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

17       **Sec. 1. 17-A MRSA §207-A, sub-§1, ¶B,** as enacted by PL 2007, c. 436, §1 and  
18 affected by §7, is amended to read:

19       B. The person violates paragraph A and at the time of the offense the person:

20       (1) ~~The person has~~ Has one or more prior convictions for ~~violating paragraph A~~  
21 ~~or for violating section 209-A, 210-B, 210-C or 211-A or one or more prior~~  
22 ~~convictions for engaging in conduct substantially similar to that contained in~~  
23 ~~paragraph A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;~~

24       (a) Violating paragraph A;

25       (b) Violating section 207, 209, 210, 210-A or 211 when the victim was a  
26 family or household member as defined in Title 19-A, section 4002,  
27 subsection 4;

28       (c) Violating section 209-A, 210-B, 210-C or 211-A; or

29       (d) Engaging in conduct substantially similar to that contained in paragraph  
30 A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;

31       (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
32 subsection 1 or one or more prior convictions for engaging in conduct  
33 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
34 another jurisdiction; or

35       (3) Has one or more prior convictions under Title 15, section 1092 for violating  
36 conditions specified in Title 15, section 1026, subsection 3, paragraph A,  
37 subparagraph (5) or subparagraph (8) when the alleged victim in the case for

1           · which the defendant was on bail was a family or household member as defined in  
2           Title 19-A, section 4002, subsection 4.

3           Violation of this paragraph is a Class C crime.

4           **Sec. 2. 17-A MRSA §209-A, sub-§1, ¶B**, as enacted by PL 2007, c. 436, §2 and  
5           affected by §7, is amended to read:

6           B. The person violates paragraph A and at the time of the offense the person:

7           (1) ~~The person has~~ Has one or more prior convictions for ~~violating paragraph A~~  
8           ~~or for violating section 207-A, 210-B, 210-C or 211-A or one or more prior~~  
9           ~~convictions for engaging in conduct substantially similar to that contained in~~  
10           ~~paragraph A or in section 207-A, 210-B, 210-C or 211-A in another jurisdiction;~~

11           (a) Violating paragraph A;

12           (b) Violating section 207, 209, 210, 210-A or 211 when the victim was a  
13           family or household member as defined in Title 19-A, section 4002,  
14           subsection 4;

15           (c) Violating section 207-A, 210-B, 210-C or 211-A; or

16           (d) Engaging in conduct substantially similar to that contained in paragraph  
17           A or in section 207-A, 210-B, 210-C or 211-A in another jurisdiction;

18           (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
19           subsection 1 or one or more prior convictions for engaging in conduct  
20           substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
21           another jurisdiction; or

22           (3) Has one or more prior convictions under Title 15, section 1092 for violating  
23           conditions specified in Title 15, section 1026, subsection 3, paragraph A,  
24           subparagraph (5) or subparagraph (8) when the alleged victim in the case for  
25           which the defendant was on bail was a family or household member as defined in  
26           Title 19-A, section 4002, subsection 4.

27           Violation of this paragraph is a Class C crime.

28           **Sec. 3. 17-A MRSA §210-B, sub-§1, ¶B**, as enacted by PL 2007, c. 436, §3 and  
29           affected by §7, is amended to read:

30           B. The person violates paragraph A and at the time of the offense the person:

31           (1) ~~The person has~~ Has one or more prior convictions for ~~violating paragraph A~~  
32           ~~or for violating section 207-A, 209-A, 210-C or 211-A or one or more prior~~  
33           ~~convictions for engaging in conduct substantially similar to that contained in~~  
34           ~~paragraph A or in section 207-A, 209-A, 210-C or 211-A in another jurisdiction;~~

35           (a) Violating paragraph A;

36           (b) Violating section 207, 209, 210, 210-A or 211 when the victim was a  
37           family or household member as defined in Title 19-A, section 4002,  
38           subsection 4;

39           (c) Violating section 207-A, 209-A, 210-C or 211-A; or

1                    (d) Engaging in conduct substantially similar to that contained in paragraph  
2                    A or in section 207-A, 209-A, 210-C or 211-A in another jurisdiction;

3                    (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
4                    subsection 1 or one or more prior convictions for engaging in conduct  
5                    substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
6                    another jurisdiction; or

7                    (3) Has one or more prior convictions under Title 15, section 1092 for violating  
8                    conditions specified in Title 15, section 1026, subsection 3, paragraph A,  
9                    subparagraph (5) or subparagraph (8) when the alleged victim in the case for  
10                    which the defendant was on bail was a family or household member as defined in  
11                    Title 19-A, section 4002, subsection 4.

12                    Violation of this paragraph is a Class C crime.

13                    **Sec. 4. 17-A MRSA §210-C, sub-§1, ¶B**, as enacted by PL 2007, c. 436, §4 and  
14                    affected by §7, is amended to read:

15                    B. The person violates paragraph A and at the time of the offense the person:

16                    (1) ~~The person has~~ Has one or more prior convictions for ~~violating paragraph A~~  
17                    ~~or for violating section 207-A, 209-A, 210-B or 211-A or one or more prior~~  
18                    ~~convictions for engaging in conduct substantially similar to that contained in~~  
19                    ~~paragraph A or in section 207-A, 209-A, 210-B or 211-A in another jurisdiction;~~

20                    (a) Violating paragraph A;

21                    (b) Violating section 207, 209, 210, 210-A or 211 when the victim was a  
22                    family or household member as defined in Title 19-A, section 4002,  
23                    subsection 4;

24                    (c) Violating section 207-A, 209-A, 210-B or 211-A; or

25                    (d) Engaging in conduct substantially similar to that contained in paragraph  
26                    A or in section 207-A, 209-A, 210-B or 211-A in another jurisdiction;

27                    (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
28                    subsection 1 or one or more prior convictions for engaging in conduct  
29                    substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
30                    another jurisdiction; or

31                    (3) Has one or more prior convictions under Title 15, section 1092 for violating  
32                    conditions specified in Title 15, section 1026, subsection 3, paragraph A,  
33                    subparagraph (5) or subparagraph (8) when the alleged victim in the case for  
34                    which the defendant was on bail was a family or household member as defined in  
35                    Title 19-A, section 4002, subsection 4.

36                    Violation of this paragraph is a Class C crime.

37                    **Sec. 5. 17-A MRSA §211-A, sub-§1, ¶B**, as enacted by PL 2007, c. 436, §5 and  
38                    affected by §7, is amended to read:

39                    B. The person violates paragraph A and at the time of the offense the person:

1 (1) ~~The person has~~ Has one or more prior convictions for ~~violating paragraph A~~  
2 ~~or for violating section 207-A, 209-A, 210-B or 210-C or one or more prior~~  
3 ~~convictions for engaging in conduct substantially similar to that contained in~~  
4 ~~paragraph A or in section 207-A, 209-A, 210-B or 210-C in another jurisdiction;~~

- 5 (a) Violating paragraph A;  
6 (b) Violating section 207, 209, 210, 210-A or 211 when the victim was a  
7 family or household member as defined in Title 19-A, section 4002,  
8 subsection 4;  
9 (c) Violating section 207-A, 209-A, 210-B or 210-C; or  
10 (d) Engaging in conduct substantially similar to that contained in paragraph  
11 A or in section 207-A, 209-A, 210-B or 210-C in another jurisdiction;

12 (2) Has one or more prior convictions for violating Title 19-A, section 4011,  
13 subsection 1 or one or more prior convictions for engaging in conduct  
14 substantially similar to that contained in Title 19-A, section 4011, subsection 1 in  
15 another jurisdiction; or

16 (3) Has one or more prior convictions under Title 15, section 1092 for violating  
17 conditions specified in Title 15, section 1026, subsection 3, paragraph A,  
18 subparagraph (5) or subparagraph (8) when the alleged victim in the case for  
19 which the defendant was on bail was a family or household member as defined in  
20 Title 19-A, section 4002, subsection 4.

21 Violation of this paragraph is a Class C crime.

22 **Emergency clause.** In view of the emergency cited in the preamble, this  
23 legislation takes effect when approved.

24 **SUMMARY**

25 Public Law 2007, chapter 436 created the crimes of domestic violence assault,  
26 domestic violence criminal threatening, domestic violence terrorizing, domestic violence  
27 stalking and domestic violence reckless conduct. A violation of one of these domestic  
28 violence crimes is a Class D crime. A person who commits one of these domestic  
29 violence crimes more than once is guilty of a Class C crime.

30 This bill clarifies that the enhanced penalty also applies if the person commits a  
31 domestic violence crime after being convicted of the crime of assault, criminal  
32 threatening, terrorizing or reckless conduct against a family or household member.