

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1856

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H.P. 1374

House of Representatives, March 8, 2012

### **An Act To Implement Certain Recommendations of the Criminal Law Advisory Commission**

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Reported by Representative PLUMMER of Windham 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 pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

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

2 **Sec. 1. 15 MRSA §1094-A** is enacted to read:

3 **§1094-A. Improper contact after bail has been revoked and denied**

4 A person is guilty of improper contact after bail has been revoked and denied if,  
5 while being detained as a result of the person's preconviction or post-conviction bail  
6 having been revoked and denied, the person intentionally or knowingly makes direct or  
7 indirect contact with a person when that contact was prohibited under a former condition  
8 of release. Violation of this section is a Class D crime.

9 **Sec. 2. 17-A MRSA §1306** is enacted to read:

10 **§1306. Satisfaction of outstanding fine amount by performing community service**  
11 **work**

12 A natural person convicted of a Class D or Class E crime who has been sentenced to  
13 pay a fine, whether mandatory or nonmandatory, and who has not inexcusably defaulted  
14 on payment of any portion of the fine may file a motion in the underlying criminal  
15 proceeding seeking to be allowed to satisfy the outstanding fine amount by performing  
16 community service work. After the person gives notice of the motion to the attorney for  
17 the State, the court shall schedule a hearing on the motion if the person qualifies. At the  
18 hearing, if the person demonstrates by a preponderance of the evidence both a present and  
19 future incapacity to pay the outstanding fine amount and the capacity and willingness to  
20 perform community service work to satisfy the outstanding fine amount, the court may  
21 grant the motion and specify the number of hours of community service work to be  
22 performed by the person to satisfy the outstanding fine amount. The number of hours  
23 specified must reflect a credit against the unpaid fine of no less than \$25 for every 8  
24 hours of community service work.

25 **Sec. 3. 30-A MRSA §1803**, as enacted by PL 2003, c. 228, §1, is amended to  
26 read:

27 **§1803. Relationship to other laws**

28 This chapter provides an alternative method for carrying out the purposes of this  
29 chapter and is supplemental to powers conferred by other laws, and is not in derogation of  
30 any existing powers. Any reference to "county jail" or "jail" in the Maine Revised  
31 Statutes includes the Lincoln and Sagadahoc Multicounty Jail.

32 **Sec. 4. 34-A MRSA §11203, sub-§6, ¶B**, as amended by PL 2009, c. 365, Pt. B,  
33 §10 and affected by §22, is further amended to read:

34 B. A violation under former Title 17, section 2922; former Title 17, section 2923;  
35 former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F,  
36 G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1,  
37 paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph  
38 B or D if the crime was not elevated a class under former Title 17-A, section 255,

1 subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, F-2, G, I, J,  
2 K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A,  
3 section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284;  
4 Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor  
5 is a parent of the victim; Title 17-A, section 511, subsection 1, paragraph D; Title  
6 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A,  
7 section 855;

8 **Sec. 5. Retroactivity.** That section of this Act that amends the Maine Revised  
9 Statutes, Title 34-A, section 11203, subsection 6, paragraph B applies retroactively to  
10 September 28, 2011.

11 **SUMMARY**

12 This bill creates a new Class D crime of improper contact after bail has been revoked  
13 and denied. A person commits this crime if the person, while being detained because the  
14 person's preconviction or post-conviction bail has been revoked and denied, intentionally  
15 or knowingly makes contact with a person when that contact was prohibited under a  
16 former condition of release.

17 The bill authorizes a court to allow a natural person who has an outstanding  
18 mandatory or nonmandatory fine imposed for a Class D or Class E crime to satisfy the  
19 fine by performing a specific number of hours of community service work if the person  
20 has not in fact inexcusably defaulted in payment of any portion and, having provided  
21 notice of the motion seeking satisfaction of the person's outstanding fine amount by  
22 performing community service to the attorney for the State, at a hearing the person  
23 demonstrates by a preponderance of the evidence both a present and future inability to  
24 pay the outstanding fine amount and the capacity and willingness to perform community  
25 service work to satisfy the fine owed. The court may not order a hearing unless the court  
26 determines the person has qualified to be considered. If the court grants the motion, the  
27 number of hours it may specify must reflect a credit against the unpaid fine of no less  
28 than \$25 for every 8 hours of community service work.

29 The bill also clarifies that all references to "county jail" or "jail" in the Maine Revised  
30 Statutes include the Lincoln and Sagadahoc Multicounty Jail.

31 The bill corrects an omission with respect to a sexual crime. Public Law 2011,  
32 chapter 464, sections 8 and 9 repealed the Maine Revised Statutes, Title 17-A, section  
33 254, subsection 1, paragraph F and moved the substance of the crime to Title 17-A,  
34 section 255-A, subsection 1, paragraph F-2. The elements of the crime did not change; it  
35 was simply moved from the crime of sexual abuse of a minor to unlawful sexual contact  
36 because the core conduct that is criminalized is sexual contact, not the sexual acts  
37 prohibited by sexual abuse of a minor. The crime of sexual abuse of a minor is included  
38 in the definition of "sex offense" in Title 34-A, section 11203, subsection 6 of the Sex  
39 Offender Registration and Notification Act of 1999, and conviction requires registration  
40 for 10 years. As the result of an oversight, the definition of "sex offense" was not  
41 amended to reflect the change in designation of the crime in the Maine Criminal Code.  
42 The correction is retroactive to the effective date of Public Law 2011, chapter 464,

1       September 28, 2011, to allow for conviction of the crime of unlawful sexual contact in  
2       violation of Title 17-A, section 255-A, subsection 1, paragraph F-2 to continue to require  
3       registration for 10 years.