

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2012

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Legislative Document

No. 1867

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H.P. 1381

House of Representatives, March 12, 2012

### An Act To Protect Victims of Domestic Violence

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

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

HEATHER J.R. PRIEST  
Clerk

Presented by Representative CAIN of Orono. (GOVERNOR'S BILL)  
Cosponsored by Senator MASON of Androscoggin and  
Representatives: BLODGETT of Augusta, BURNS of Whiting, FREDETTE of Newport,  
HANLEY of Gardiner, HASKELL of Portland, MORISSETTE of Winslow, PLUMMER of  
Windham, Senator: GERZOFKY of Cumberland.

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

2 **PART A**

3 **Sec. A-1. 15 MRSA §1003, sub-§3-A**, as enacted by PL 2011, c. 341, §1, is  
4 amended to read:

5 **3-A. Crime involving domestic violence.** "Crime involving domestic violence"  
6 means:

7 A. As defined in Title 17-A, a crime of domestic violence assault, domestic violence  
8 criminal threatening, domestic violence terrorizing, domestic violence stalking or  
9 domestic violence reckless conduct; ~~and~~

10 B. A violation of a protective order under Title 19-A, section 4011, the alleged  
11 victim of which is a family or household member as defined in Title 19-A, section  
12 4002, subsection 4; ~~and~~

13 C. Any of the following crimes when alleged to have been committed against a  
14 family or household member as defined in Title 19-A, section 4002, subsection 4:

15 (1) Title 17-A, section 203, manslaughter;

16 (2) Title 17-A, section 208, aggravated assault;

17 (3) Title 17-A, section 208-B, elevated aggravated assault;

18 (4) Title 17-A, section 208-C, elevated aggravated assault on a pregnant person;

19 (5) Title 17-A, section 213, aggravated reckless conduct;

20 (6) Title 17-A, section 253, gross sexual assault;

21 (7) Title 17-A, section 301, kidnapping;

22 (8) Title 17-A, section 302, criminal restraint;

23 (9) Title 17-A, section 402, criminal trespass; and

24 (10) Title 17-A, section 402-A, aggravated criminal trespass.

25 **Sec. A-2. 15 MRSA §1023, sub-§4, ¶C**, as amended by PL 2011, c. 341, §2, is  
26 repealed.

27 **Sec. A-3. 15 MRSA §1023, sub-§4, ¶C-1** is enacted to read:

28 C-1. Set preconviction bail for a defendant alleged to have committed a crime  
29 involving domestic violence;

30 **Sec. A-4. 15 MRSA §1092, sub-§1, ¶B**, as amended by PL 2005, c. 449, §2, is  
31 further amended to read:

32 B. A Class C crime if the underlying crime was punishable by a maximum period  
33 of imprisonment of one year or more or was a crime involving domestic violence and  
34 the condition of release violated is one specified in section 1026, subsection 3,  
35 paragraph A, subparagraph (5), (8), (10-A) or (13).



1 observable physical condition of the victim or the use of strangulation. For the  
2 purpose of this paragraph, "strangulation" means the intentional impeding of the  
3 breathing or circulation of the blood of another person by applying pressure on the  
4 person's throat or neck.

5 **Sec. B-2. 17-A MRSA §1201, sub-§1, ¶A-1**, as amended by PL 2011, c. 465,  
6 §7, is further amended to read:

7 A-1. The conviction is for a Class D or Class E crime other than:

8 (1) A Class D or Class E crime relative to which, based upon both the written  
9 agreement of the parties and a court finding, the facts and circumstances of the  
10 underlying criminal episode giving rise to the conviction generated probable  
11 cause to believe the defendant had committed a Class A, Class B or Class C  
12 crime in the course of that criminal episode and, as agreed upon in writing by the  
13 parties and found by the court, the defendant has no prior conviction for murder  
14 or for a Class A, Class B or Class C crime and has not been placed on probation  
15 pursuant to this subparagraph on any prior occasion;

16 (2) A Class D crime that the State pleads and proves was committed against a  
17 family or household member or a dating partner under chapter 9 or 13 or section  
18 554, 555 or 758. As used in this subparagraph, "family or household member"  
19 has the same meaning as in Title 19-A, section 4002, subsection 4; "dating  
20 partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A;

21 (2-A) A Class D crime under Title 5, section 4659, subsection 1, Title 15,  
22 section 321, subsection 6 or Title 19-A, section 4011, subsection 1;

23 (3) A Class D or Class E crime in chapter 11 or 12;

24 (4) A Class D crime under section 210-A;

25 (4-A) A Class E crime under section 552;

26 (5) A Class D or Class E crime under section 556, section 854, excluding  
27 subsection 1, paragraph A, subparagraph (1), or section 855;

28 (6) A Class D crime in chapter 45 relating to a schedule W drug;

29 (7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A,  
30 paragraph B;

31 (8) A Class D crime under Title 17, section 1031; ~~or~~

32 (9) A Class D crime under Title 17-A, section 1119, subsection 1; or

33 (10) A crime involving domestic violence. For the purposes of this  
34 subparagraph, "crime involving domestic violence" has the same meaning as in  
35 Title 15, section 1003, subsection 3-A.

### 36 PART C

37 **Sec. C-1. 25 MRSA §2803-B, sub-§1, ¶D**, as amended by PL 2011, c. 265, §2,  
38 is further amended to read:

- 1 D. Domestic violence, which must include, at a minimum, the following:
- 2 (1) A process to ensure that a victim receives notification of the defendant's  
3 release from jail;
- 4 (2) A process for the collection of information regarding the defendant that  
5 includes the defendant's previous history, the parties' relationship, whether the  
6 commission of an alleged crime included the use of strangulation as defined in  
7 Title 17-A, section 208, subsection 1, paragraph C, the name of the victim and a  
8 process to relay this information to a bail commissioner before a bail  
9 determination is made;
- 10 (3) A process for the safe retrieval of personal property belonging to the victim  
11 or the defendant that includes identification of a possible neutral location for  
12 retrieval, the presence of at least one law enforcement officer during the retrieval  
13 and giving the victim the option of at least 24 hours notice to each party prior to  
14 the retrieval; and
- 15 (4) Standard procedures to ensure that protection from abuse orders issued under  
16 Title 19-A, section 4006 or 4007 are served on the defendant as quickly as  
17 possible;

## 18 SUMMARY

19 This bill:

- 20 1. Adds additional crimes to the definition of "crime involving domestic violence" in  
21 the Maine Bail Code;
- 22 2. Provides that bail must be determined by a judge, not a bail commissioner, when a  
23 crime involving domestic violence is alleged to have occurred;
- 24 3. Makes the violation of a bail condition in cases in which an underlying crime was a  
25 crime involving domestic violence a Class C crime;
- 26 4. Requires judges to order that a defendant be committed without bail pending a bail  
27 revocation hearing, unless certain conditions are met, in certain circumstances;
- 28 5. Requires judges to deny bail in certain circumstances;
- 29 6. Allows a sentence of or that includes a term of probation to be imposed upon a  
30 defendant convicted of a crime involving domestic violence; and
- 31 7. Requires law enforcement agencies to include in their mandatory policies  
32 regarding domestic violence a process for collecting information about whether the  
33 commission of an alleged crime included the use of strangulation.