# MAINE STATE LEGISLATURE

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## 129th MAINE LEGISLATURE

### FIRST REGULAR SESSION-2019

**Legislative Document** 

No. 262

S.P. 74

In Senate, January 22, 2019

An Act To Protect Law Enforcement and Corrections Officers by Creating the Crime of Aggravated Assault on an Officer

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

DAREK M. GRANT Secretary of the Senate

Presented by Senator CYRWAY of Kennebec.
Cosponsored by Representative HANLEY of Pittston and
Senators: CLAXTON of Androscoggin, DAVIS of Piscataquis, FOLEY of York,
TIMBERLAKE of Androscoggin, Representatives: BRADSTREET of Vassalboro,
CAMPBELL of Orrington, NADEAU of Winslow, WHITE of Waterville.

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

- Sec. 1. 17-A MRSA §752-A, sub-§1, ¶A, as enacted by PL 1977, c. 656, §2, is amended to read:
  - A. He <u>The person</u> intentionally, knowingly or recklessly causes bodily injury <u>or offensive physical contact</u> to a law enforcement officer while the officer is in the performance of his the officer's official duties; or
    - Sec. 2. 17-A MRSA §752-F is enacted to read:

#### §752-F. Aggravated assault on an officer

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- A person is guilty of aggravated assault on an officer if:
- 10 1. That person intentionally, knowingly or recklessly causes a law enforcement officer while the law enforcement officer is in the performance of the officer's official duties to suffer a:
  - A. Bodily injury that creates a substantial risk of death or extended convalescence necessary for recovery of physical health. Violation of this paragraph is a Class B crime;
    - B. Bodily injury that causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ. Violation of this paragraph is a Class A crime;
  - C. Bodily injury from the use of a dangerous weapon. Violation of this paragraph is a Class B crime; or
    - D. Bodily injury under circumstances manifesting extreme indifference to the value of human life. Such circumstances include, but are not limited to, the number, location or nature of the injuries, the manner or method inflicted, the observable physical condition of the victim or the use of strangulation. For the purposes of this paragraph, "strangulation" means the intentional impeding of the breathing or circulation of the blood of another person by applying pressure on the person's throat or neck. Violation of this paragraph is a Class B crime; or
    - 2. While in custody pursuant to an arrest or pursuant to a court order, the person intentionally, knowingly or recklessly causes a corrections officer, a corrections supervisor or another member of the staff of a correctional institution while the officer, supervisor or staff member is performing official duties to suffer a:
- A. Bodily injury that creates a substantial risk of death or extended convalescence necessary for recovery of physical health. Violation of this paragraph is a Class B crime;
- B. Bodily injury that causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ. Violation of this paragraph is a Class A crime;

C. Bodily injury from the use of a dangerous weapon. Violation of this paragraph is a Class B crime; or

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- D. Bodily injury under circumstances manifesting extreme indifference to the value of human life. Such circumstances include, but are not limited to, the number, location or nature of the injuries, the manner or method inflicted, the observable physical condition of the victim or the use of strangulation. For the purposes of this paragraph, "strangulation" means the intentional impeding of the breathing or circulation of the blood of another person by applying pressure on the person's throat or neck. Violation of this paragraph is a Class B crime.
- **Sec. 3. 17-A MRSA §1252, sub-§4,** as amended by PL 2005, c. 527, §17, is further amended to read:
- **4.** If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use should be given serious consideration by the court in exercising its sentencing discretion. This subsection does not apply to a violation or an attempted violation of section 208 or 752-F, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise increased because the actor or an accomplice to that actor's or accomplice's knowledge is armed with a firearm or other dangerous weapon.
- **Sec. 4. 17-A MRSA §1252, sub-§4-A,** as amended by PL 2017, c. 336, §1, is further amended to read:
- **4-A.** If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection 1, paragraph A; or section 752-A or, 752-C or 752-F was committed, or an attempt of any such crime was committed, the defendant had 2 or more prior convictions under chapter 9, 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection 1, paragraph A; or section 752-A or, 752-C or 752-F, or for an attempt of any such crime, or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior 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. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

39 SUMMARY

This bill changes the crime of assault on an officer to include offensive physical contact and creates the crime of aggravated assault on an officer, which includes assaults

- against law enforcement officers and corrections officers and other corrections personnel and which is modeled on the crime of aggravated assault. 1
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