

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

Majority

L.D. 316

RMG
ROFS

Date: 5/17/19

Majority

(Filing No. H-297)

CRIMINAL JUSTICE AND PUBLIC SAFETY

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 240, L.D. 316, Bill, "An Act To Protect Adults 66 Years of Age and Older from Financial and Other Types of Exploitation through Theft by Deception"

Amend the bill by striking out the title and substituting the following:

'An Act To Protect Vulnerable Persons from Theft'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 17-A MRSA §352, sub-§6 is enacted to read:

6. "Vulnerable person" means a dependent adult as defined in Title 22, section 3472, subsection 6 or an incapacitated adult as defined in Title 22, section 3472, subsection 10.

Sec. 2. 17-A MRSA §353, sub-§1, ¶B, as amended by PL 2007, c. 476, §10, is further amended to read:

B. The person violates paragraph A and:

- (1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;
- (2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;
- (3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;
- (4) The value of the property is more than \$1,000 but not more than \$10,000. Violation of this subparagraph is a Class C crime;
- (5) The value of the property is more than \$500 but not more than \$1,000. Violation of this subparagraph is a Class D crime; or

COMMITTEE AMENDMENT

ROFS

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

11 (7) The owner of the property subject to theft is a vulnerable person. Violation
12 of this subparagraph is a Class B crime; or

13 **Sec. 3. 17-A MRSA §354, sub-§1, ¶B**, as amended by PL 2007, c. 476, §11, is
14 further amended to read:

15 B. The person violates paragraph A and:

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

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

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

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

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

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

36 (7) The owner of the property subject to theft is a vulnerable person. Violation
37 of this subparagraph is a Class B crime.

38 **Sec. 4. 17-A MRSA §358, sub-§1, ¶B**, as amended by PL 2007, c. 476, §16, is
39 further amended to read:

40 B. The person violates paragraph A and:

R O F S

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

38 **Sec. 5. 17-A MRSA §903, sub-§4**, as enacted by PL 2013, c. 414, §5, is amended
39 to read:

40 4. If a misuse of entrusted property results in the loss of a vulnerable person's
41 property or the loss of property entrusted to a person for the benefit of a vulnerable

COMMITTEE AMENDMENT

ROFS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

person and, at the time of the offense, the owner or the beneficiary of the property is a vulnerable person; the misuse of entrusted property is a Class B crime.

~~A. If the value of the property is more than \$1,000 but not more than \$10,000, the misuse of entrusted property is a Class C crime; and~~

~~B. If the value of the property is more than \$10,000, the misuse of entrusted property is a Class B crime.~~

As used in this subsection, "vulnerable person" means an incapacitated adult as defined in Title 22, section 3472, subsection 10 or a dependent adult as defined in Title 22, section 3472, subsection 6.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

**INDIGENT LEGAL SERVICES, MAINE COMMISSION ON
Maine Commission on Indigent Legal Services Z112**

Initiative: Provides funding for increased costs to the Maine Commission on Indigent Legal Services due to elevating the class of certain crimes of theft or fraud if the victim is a vulnerable person.

GENERAL FUND	2019-20	2020-21
All Other	\$66,938	\$89,250
GENERAL FUND TOTAL	\$66,938	\$89,250

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment is the majority report of the committee. The amendment replaces the bill and provides a new title. The amendment defines "vulnerable person" by reference to the definitions of "dependent adult" in the Maine Revised Statutes, Title 22, section 3472, subsection 6 and "incapacitated adult" in Title 22, section 3472, subsection 10. The amendment designates the following types of theft or fraud as Class B crimes if the owner of the property is a vulnerable person: theft by unauthorized taking or transfer, theft by deception, theft by misapplication of property and misuse of entrusted property. The amendment includes an appropriations and allocations section.

FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 316

LR 806(02)

An Act To Protect Adults 66 Years of Age and Older from Financial and Other Types of Exploitation through Theft by Deception

Fiscal Note for Bill as Amended by Committee Amendment *A(H-297)*

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

	FY 2019-20	FY 2020-21	Projections FY 2021-22	Projections FY 2022-23
Net Cost (Savings)				
General Fund	\$66,938	\$89,250	\$89,250	\$89,250
Appropriations/Allocations				
General Fund	\$66,938	\$89,250	\$89,250	\$89,250

Fiscal Detail and Notes

This bill would raise the class of various theft crimes if the victim is a vulnerable person to a Class B crime. Currently theft from a vulnerable person could range from a Class E to a Class B crime, depending on the circumstances of the case.

In 2018 the Maine Commission on Indigent Legal Services handled about 3,400 cases under the theft crime sections changed in this bill that were not already charged as Class B crimes. Of these, about 2-5% are estimated to have been committed against a vulnerable person. The average incremental cost to the commission of increasing these crimes from a class E, D, or C crime to a Class B crime is \$750. As a result, this would represent increased costs to the commission of \$51,000 to \$127,500, or an average of \$89,250 per year. The bill includes General Fund appropriations to the commission of \$66,938 in fiscal year 2019-20 and \$89,250 in fiscal year 2020-21.

In addition, the Maine Department of Corrections (DOC) will face increased costs due to more incarcerated individuals and individuals incarcerated for longer periods of time. It is unclear how many individuals would be convicted of a Class B crime who otherwise would have been charged with a lower class crime. The incremental cost of changing a Class C crime to a Class B crime is \$27,506 per sentence. The incremental cost of changing a Class D or E crime to a class B crime is \$71,611. The DOC has not indicated the need for additional funding at this time and no funding is included in the bill for DOC.

The collection of additional fine revenue by the courts will increase General Fund and dedicated revenue by minor amounts.