

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2021

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Legislative Document

No. 1478

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H.P. 1093

House of Representatives, April 14, 2021

### An Act To Decriminalize Homelessness

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Received by the Clerk of the House on April 12, 2021. Referred to the Committee on Criminal Justice and Public Safety pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative MORALES of South Portland.  
Cosponsored by Representatives: CLOUTIER of Lewiston, GERE of Kennebunkport,  
GROHOSKI of Ellsworth, LOOKNER of Portland, PLUECKER of Warren, WARREN of  
Hallowell, WARREN of Scarborough.

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

2 **Sec. 1. 17-A MRSA §18** is enacted to read:

3 **§18. Homelessness crisis protocol**

4 Notwithstanding any provision of law or municipal ordinance to the contrary, a person  
5 who lacks a home who violates any of the provisions of law listed in subsection 2 because  
6 the person lacks a home is not subject to arrest and prosecution for the offense and must be  
7 treated in accordance with a homelessness crisis protocol adopted by the law enforcement  
8 agency under subsection 4.

9 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
10 following terms have the following meanings.

11 A. "Law enforcement agency" has the same meaning as in Title 25, section 3701,  
12 subsection 1.

13 B. "Law enforcement officer" has the same meaning as in section 2, subsection 17.

14 **2. Listed offenses.** The following offenses qualify a person for response using a  
15 homelessness crisis protocol adopted pursuant to subsection 4:

16 A. Criminal trespass that is based on conduct that is prohibited as loitering or seeking  
17 shelter in a public place in violation of section 402, subsection 1, paragraph C or F;

18 B. Disorderly conduct in violation of section 501-A, subsection 1, paragraph A,  
19 subparagraph (1) that is based on making loud and unreasonable noises, activating a  
20 device or exposing a substance that releases a noxious and offensive odor or engaging  
21 in fighting without being licensed to do so;

22 C. Indecent conduct that is based on urinating in public in violation of section 854;

23 D. Possession of a scheduled drug that is based on using the scheduled drug in violation  
24 of chapter 45; and

25 E. Public drinking that is based on drinking liquor in a public place in violation of Title  
26 17, section 2003-A, subsection 2.

27 **3. Law enforcement response to a listed offense by a person who lacks a home.** A  
28 law enforcement officer who encounters a person committing an offense listed in  
29 subsection 2 shall inquire whether the person has a home or lacks a home. If the person  
30 lacks a home, the law enforcement officer shall respond to the person using the  
31 homelessness crisis protocol adopted by the officer's law enforcement agency under  
32 subsection 4.

33 **4. Adoption of homelessness crisis protocol.** By January 1, 2022, the Attorney  
34 General shall adopt a homelessness crisis protocol to be adopted by all law enforcement  
35 agencies and to be used by a law enforcement officer in responding to a person who lacks  
36 a home who is committing or has committed an offense listed in subsection 2. The  
37 homelessness crisis protocol must provide mental health and substance use disorder  
38 professionals who are trained in crisis response to respond to the encounter between the  
39 law enforcement officer and the person who lacks a home and who are able to provide  
40 appropriate information and referrals to resources in the community, including, but not  
41 limited to, crisis services, emergency and transitional housing and case management  
42 services.

**SUMMARY**

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This bill provides a response other than traditional arrest for a person who lacks a home who commits certain listed low-level violations of law. The bill requires the Attorney General to adopt a homelessness crisis protocol to be adopted by law enforcement agencies. The protocol must provide mental health and substance use disorder professionals who are trained in crisis response to respond to the encounter between the law enforcement officer and the person who lacks a home and provide appropriate information and referrals to resources in the community, including, but not limited to, crisis services, emergency and transitional housing and case management services.