

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and Fifth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Fifth Legislature
1971

Chapter 539

AN ACT to Provide Mandatory Penalties for Commission of a Crime with a Firearm.

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

Sec. 1. R. S., T. 17, § 2, additional. Title 17 of the Revised Statutes is amended by adding a new section 2, to read as follows:

§ 2. Abduction of women while armed with firearm

Whoever, if armed with a firearm, takes a woman unlawfully and against her will and by force, menace or duress compels her to marry him or any other person or to be defiled shall be punished by imprisonment for any term of years. Whoever, if armed with a firearm, takes a woman with intent by such means to compel her to do so shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of a sentence for a violation of this section shall not be suspended and probation shall not be granted.

Sec. 2. R. S., T. 17, § 163-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 163-A, to read as follows:

§ 163-A. Firearm

Any person, if armed with a firearm, who willfully and maliciously sets fire to, burns or causes to be burned any of the buildings or property mentioned in sections 161 to 163 shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 3. R. S., T. 17, § 201-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 201-A to read as follows:

§ 201-A. Firearm

Whoever, if armed with a firearm, unlawfully attempts to strike, hit, touch or do any violence to another, however small, in a wanton, willful or angry or insulting manner having an intention and existing ability to do some violence to such person, is guilty of an armed assault. If such attempt is carried into effect, he is guilty of an armed assault and battery. Any person convicted of either offense shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of a sentence for a violation of this section shall not be suspended and probation shall not be granted.

Sec. 4. R. S., T. 17, § 203, additional. Title 17 of the Revised Statutes is amended by adding a new section 203 to read as follows:

§ 203. Intent to commit felony; firearm

Whoever, if armed with a firearm, commits an assault with intent to commit a felony which has not been otherwise described or for which no penalty

has been provided shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 5. R. S., T. 17, § 252, additional. Title 17 of the Revised Statutes is amended by adding a new section 252 to read as follows:

§ 252. Attempt with overt act; firearm

Whoever, if armed with a firearm, attempts to commit an offense and does anything towards it, but fails or is interrupted or is prevented in its execution, where no punishment is expressly provided for such attempt, shall, if the offense thus attempted is punishable with imprisonment for life, be imprisoned for not less than 5 nor more than 10 years; and in all other cases he shall receive the same kind of punishment that might have been inflicted if the offense attempted had been committed, but not exceeding $\frac{1}{2}$ thereof. The imposition or execution of a sentence for a violation of this section shall not be suspended and probation shall not be granted.

Sec. 6. R. S., T. 17, § 751-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 751-A to read as follows:

§ 751-A. Firearm

Whoever, if armed with a firearm, breaks and enters in the nighttime with intent to commit a felony or any larceny, or having entered with such intent, breaks in the nighttime a dwelling house, any person being then lawfully therein, is guilty of armed burglary and shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted. All burglar tools or implements prepared or designed for committing burglary shall be dealt with as provided in section 1813.

Sec. 7. R. S., T. 17, § 753, amended. Section 753 of Title 17 of the Revised Statutes is amended to read as follows:

§ 753. Assault with intent to commit

Whoever assaults another with intent to commit burglary, if armed with a dangerous weapon, shall be punished by imprisonment for not less than one year nor more than 20 years; ~~when not so armed~~. The imposition or execution of such sentence shall not be suspended and probation shall not be granted. Whoever assaults another with intent to commit burglary, if not armed with a dangerous weapon, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 10 years.

Sec. 8. R. S., T. 17, § 754-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 754-A to read as follows:

§ 754-A. —firearm

Whoever, if armed with a firearm, with intent to commit a felony or any larceny, breaks and enters in the daytime or enters without breaking in the

nighttime any dwelling house or breaks and enters any office, bank, shop, store, warehouse, vessel, railroad car of any kind, motor vehicle, aircraft, house trailer or building in which valuable things are kept, any person being lawfully therein and put in fear, shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 9. R. S., T. 17, § 1404-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 1404-A, to read as follows:

§ 1404-A. Escape; firearm

Whoever, if armed with a firearm, forcibly rescues a prisoner lawfully detained for any criminal offense; or in any way aids him to escape, although such escape is not effected, shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 10. R. S., T. 17, § 1405-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 1405-A to read as follows:

§ 1405-A. Escapes from jail; firearm

Whoever, being lawfully detained in any jail or other place of confinement, except the State Prison, if armed with a firearm, breaks or escapes therefrom, or attempts to do so, shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted. The sentence to such imprisonment shall not be concurrent with any other sentence then being served or thereafter to be imposed upon such escapee.

Sec. 11. R. S., T. 17, § 1952, additional. Title 17 of the Revised Statutes is amended by adding a new section 1952 to read as follows:

§ 1952. Firearm

Whoever, having attained his 20th birthday, if armed with a firearm, takes any indecent liberty or liberties or indulges in any indecent or immoral practice or practices with the sexual parts or organs of any other person, male or female, who has not attained his or her 16th birthday, either with or without the consent of such male or female person, or, whoever, having attained his 20th birthday, if armed with a firearm, induces or procures any person who has not attained his or her 16th birthday to take any indecent liberty or liberties or to indulge in any indecent or immoral practice or practices with the sexual parts or organs of any person, male or female, other than the said person who has not attained his or her 16th birthday, upon conviction thereof, shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 12. R. S., T. 17, § 2051-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 2051-A to read as follows:

§ 2051-A. Firearm

Whoever, if armed with a firearm, except in the case of a minor by his parent, kidnaps or unlawfully confines, inveigles, decoys, imprisons, transports or carries another out of the State, or from place to place within it, shall be punished by imprisonment for any term of years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 13. R. S., T. 17, § 2551-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 2551-A, to read as follows:

§ 2551-A. Armed with firearm

Whoever, if armed with a firearm, unlawfully kills a human being in the heat of passion, on sudden provocation, without express or implied malice aforethought, or commits manslaughter as defined by the common law, shall be punished by imprisonment for not less than 5 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 14. R. S., T. 17, § 2601-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 2601-A to read as follows:

§ 2601-A. Firearm

Whoever, if armed with a firearm, with a malicious intent to maim or disfigure, cuts or maims the tongue, puts out or destroys an eye, cuts or tears off an ear, cuts, slits or mutilates the nose or lip, or cuts off or disables a limb or other member of another person, shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 15. R. S., T. 17, § 2602, repealed and replaced. Section 2602 of Title 17 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 2602. Assault with intent

Whoever assaults another with intent to maim, if armed with a dangerous weapon, shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted. Whoever assaults another with intent to maim, if not armed with a dangerous weapon, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 10 years.

Sec. 16. R. S., T. 17, § 2656, repealed and replaced. Section 2656 of Title 17 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 2656. Assault with intent

Whoever assaults another with intent to murder or kill, if armed with a dangerous weapon, shall be punished by imprisonment for not less than 2

nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted. Whoever assaults another with intent to murder or kill, if not armed with a dangerous weapon, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 10 years.

Sec. 17. R. S., T. 17, § 3151-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 3151-A to read as follows:

§ 3151-A. Firearm

Whoever, if armed with a firearm, ravishes and carnally knows any female who has attained her 14th birthday, by force and against her will, or unlawfully and carnally knows and abuses a female child who has not attained her 14th birthday, shall be punished by imprisonment for any term of years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 18. R. S., T. 17, § 3154, additional. Title 17 of the Revised Statutes is amended by adding a new section 3154 to read as follows:

§ 3154. —firearm

Whoever, if armed with a firearm, assaults a female who has attained her 14th birthday with intent to commit a rape shall be punished by imprisonment for not more than 10 years. If such assault is made on a female who has not attained her 14th birthday, such imprisonment shall be for not less than 2 nor more than 25 years. The imposition or execution of a sentence for a violation of this section shall not be suspended and probation shall not be granted.

Sec. 19. R. S., T. 17, § 3401-A, additional. Title 17 of the Revised Statutes is amended by adding a new section 3401-A to read as follows:

§ 3401-A. —firearm

Whoever, if armed with a firearm, by force and violence, or by putting in fear, feloniously steals and takes from the person of another property that is the subject of larceny is guilty of robbery and shall be punished by imprisonment for any term of years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted.

Sec. 20. R. S., T. 17, § 3402, repealed and replaced. Section 3402 of Title 17 of the Revised Statutes is repealed and the following enacted in place thereof:

§ 3402. Assault with intent

Whoever assaults another with intent to rob or steal, if armed with a dangerous weapon, shall be punished by imprisonment for not less than 2 nor more than 25 years. The imposition or execution of such sentence shall not be suspended and probation shall not be granted. Whoever assaults another with intent to rob or steal, if not armed with a dangerous weapon, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 10 years.

Sec. 21. R. S., T. 17, c. 132, additional. Title 17 of the Revised Statutes is amended by adding a new chapter 132 to read as follows:

CHAPTER 132

DEFINITIONS

§ 4001. Definitions

The following words, terms and phrases when used in this Title and in Title 34 shall have the meaning ascribed to them in this section.

1. Armed. "Armed" means armed with a firearm.

2. Firearm. "Firearm" shall include any pistol, revolver, rifle, shotgun, machinegun, automatic and semiautomatic rifle or other firearm as the term is commonly used, or any gun, device or instrument in the nature of a weapon from which may be fired or projected any solid projectile or slug, pellet, missile or bullet or any gas, vapor or other nocuous thing by means of a cartridge or shell or by the action of an explosive or the igniting of flammable or explosive substances; or any other instrument that has the appearance of a firearm even though not capable of discharging a projectile.

Sec. 22. R. S., T. 34, § 710-A, additional. Title 34 of the Revised Statutes is amended by adding a new section 710-A to read as follows:

§ 710-A. Firearm

If a convict, sentenced to the State Prison for life, or for a limited term of years, or transferred thereto from the Men's Correctional Center under sections 807 and 808, or committed thereto for safekeeping under Title 15, section 453, if armed with a firearm, assaults any officer or other person employed in the government thereof, or breaks or escapes therefrom, or forcibly attempts to do so, he may be punished by confinement to hard labor for any term of years, to commence after the completion of his former sentence or upon termination of such sentence by the State Probation and Parole Board. Said termination shall not take place sooner than the expiration of the parole eligibility hearing date applicable to his former sentence.

The imposition or execution of a sentence for a violation of this section shall not be suspended and probation or parole shall not be granted until the minimum imprisonment fixed by the court shall have been served.

Sec. 23. R. S., T. 34, § 753-A, additional. Title 34 of the Revised Statutes is amended by adding a new section 753-A to read as follows:

§ 753-A. —firearm

Whoever, if armed with a firearm, forcibly rescues or attempts to rescue any convict sentenced to the State Prison, from the legal custody of any officer or other person, or from the State Prison, jail or other place where he is legally confined, shall be punished by imprisonment for not less than 10 nor more than 20 years.

The imposition or execution of a sentence for a violation of this section shall not be suspended and probation shall not be granted.

Effective September 23, 1971

Chapter 540

AN ACT to Amend Biennial Elections of Penobscot Tribe of Indians.

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

R. S., T. 22, § 4792, amended. The first 2 sentences of the 4th paragraph of section 4792 of Title 22 of the Revised Statutes are repealed and the following enacted in place thereof:

Whenever any vacancy occurs in the office of governor, lieutenant governor, council and representative at the Legislature, there shall be a special election called by the commissioner within 60 days to fill such vacancy. The governor, lieutenant governor, council and representative at the Legislature may be removed from office by a petition showing charges and signed by a number of registered voters equal to at least a majority of the number of votes cast for tribal governor at the next preceding tribal election, and the petition is presented in writing to the governor, lieutenant governor, council and representative at the Legislature in a formal hearing called by the commissioner and thereupon such petition shall be acted upon provided that a majority of the persons legally registered to vote at the next preceding tribal election are present.

Effective September 23, 1971

Chapter 541

AN ACT Providing for the Protection of Coastal Wetlands.

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

R. S., T. 12, c. 421, sub-c. II, additional. Chapter 421 of Title 12 of the Revised Statutes, as enacted by chapter 348 of the public laws of 1967, and as amended, is further amended by adding a new subchapter II, to read as follows:

SUBCHAPTER II

ZONING

§ 4751. Purpose

The purpose of this subchapter is the promotion of the public safety, health and welfare, the protection of public and private property and the conserva-