

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND TENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 1980 to June 19, 1981

AND AT THE

FIRST SPECIAL SESSION
August 3, 1981

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PUBLIC LAWS
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semiannually, reduced by a credit at the rate of \$2,000 plus interest thereon per year for the time he shall have actually practiced in Maine.

2. Agreement for osteopathic loan students; 1981. Any osteopathic loan student commencing his professional education on or after July 1, 1981, shall, as a condition precedent to the commencement of his education, enter into an agreement with the Commissioner of Educational and Cultural Services stating that, following the completion of his professional education, including internship, residency and obligated public health service, he shall pay the State an amount of money equal to the loan granted to and utilized by him as a student of osteopathic medicine. This amount shall be payable at 9% simple annual interest in not more than 10 annual equal installments. These installment payments shall commence at such time as the state contract student concludes his professional education under rules promulgated by the commissioner.

PART P

	1980-81	1981-82	1982-83
Total Appropriation	(\$300,000)	\$613,797,981	\$641,759,335

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1981, except as otherwise indicated.

Effective July 1, 1981, unless otherwise indicated

CHAPTER 317

S. P. 444 — L. D. 1282

AN ACT to Amend the Criminal Code and Related Criminal Laws.

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

Sec. 1. 15 MRSA § 201, sub-§4, ¶ B, as enacted by PL 1977, c. 671, § 3, is amended to read:

B. Any person convicted of a crime in the demanding state who is not in that state, unless he is lawfully absent pursuant to the terms of his bail or other release, and who has not served or completed a sentence imposed pursuant to the conviction. This definition shall include, but not be limited to, a person who has been released pending appeal or other review of the conviction, the review having been completed; a person who has been serving a sentence in this State; a person who has escaped from confinement in the demanding state; or a person who has broken the terms of his bail, probation or parole.

Sec. 2. 15 MRSA § 203, sub-§ 2, ¶ A, as enacted by PL 1977, c. 671, § 5, is amended to read:

A. A statement by the executive authority of the demanding state that the person demanded ~~has escaped from confinement or has broken the terms of his bail, probation or parole~~ is a fugitive from justice, as defined in section 201, subsection 4, paragraph B; and

Sec. 3. 15 MRSA § 210-A, 2nd paragraph, as enacted by PL 1977, c. 671, § 10, is amended to read:

Affidavits, including any affidavits supplied pursuant to the provisions of section 203 or in support of an application for requisition, and any other hearsay evidence which may be deemed reliable by the court, shall be admissible at the hearing on the petition ~~for a writ of habeas corpus contesting extradition~~, for the purpose of showing that the petitioner is charged with a crime in the demanding state, **that there is probable cause**, that the petitioner is in fact the person charged with the crime and that the petitioner is a fugitive from justice.

Sec. 4. 17-A MRSA § 8, sub-§ 4, as enacted by PL 1975, c. 499, § 1, is amended to read:

4. If a timely complaint, **information** or indictment is dismissed for any error, defect, insufficiency or irregularity, a new prosecution for the same crime based on the same conduct may be commenced within 6 months after the dismissal, or during the next session of the grand jury, whichever occurs later, even though the periods of limitations ~~has~~ **have** expired at the time of such dismissal or will expire within such period of time.

Sec. 5. 17-A MRSA § 11, sub-§ 5, first sentence, as amended by PL 1975, c. 740, § 19, is further amended to read:

If a statute defining a crime ~~in this code~~ does not expressly prescribe a culpable mental state with respect to some or all of the elements of the crime, a culpable mental state is nevertheless required, pursuant to subsections 1, 2 and 3, unless:

Sec. 6. 17-A MRSA § 208, sub-§ 1, ¶ C, as amended by PL 1975, c. 740, § 43, is further amended to read:

C. Bodily injury to another 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, ~~or~~ the manner or method inflicted, **or the observable physical condition of the victim.**

Sec. 7. 17-A MRSA § 351, as enacted by PL 1975, c. 499, § 1, is amended by adding at the end a new sentence to read:

If the evidence is sufficient to permit a finding of guilt of theft in more than one manner, no election among those manners is required.

Sec. 8. 17-A MRSA § 352, sub-§ 3, ¶C, as amended by PL 1975, c. 740, § 52, is further amended to read:

C. To use or dispose of the property under circumstances that make it unlikely that the owner will recover it or that manifest an indifference as to whether the owner will recover it.

Sec. 9. 17-A MRSA § 356, as enacted by PL 1975, c. 499, § 1, is repealed and the following enacted in its place:

§ 356. Theft of lost, mislaid, mistakenly delivered or mistakenly acquired property

A person is guilty of theft if:

1. He obtains or exercises control over the property of another:

A. Which he knows to have been lost or mislaid or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property; or

B. Which he has acquired under a mistake as to ownership, but which he later learns is the property of another; and

2. With the intent to deprive the owner of the property at any time subsequent to acquiring it, he fails to take reasonable measures to return it.

Sec. 10. 17-A MRSA § 362, sub-§ 3, as last amended by PL 1977, c. 510, § 49, is repealed and the following enacted in its place:

3. Theft is a Class C crime if:

A. The value of the property or services is more than \$1,000 but not more than \$5,000;

B. The theft is a violation under section 355; or

C. The actor has 2 prior convictions for any combination of theft or violation of section 702, 703 or 708, or attempts thereat. For purposes of this paragraph, the dates of both of the prior convictions must precede the commission of the offense being enhanced, although both such prior convictions may have occurred on the same day. This paragraph does not apply if the commission of the 2 prior offenses occurred within a 3-day period. The date of a conviction shall be deemed the date that sentence is imposed, even though an appeal was taken. The date of a commission of prior offenses shall be presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 11. 17-A MRSA § 402, sub-§ 1, ¶C, as repealed and replaced by PL 1979, c. 701, § 23, is amended to read:

C. He enters any place from which he may lawfully be excluded and which is posted in a manner **prescribed by law or in a manner** reasonably likely to come to the attention of intruders or which is fenced or otherwise enclosed in a manner designed to exclude intruders;

Sec. 12. 17-A MRSA § 451, sub-§ 3, 2nd sentence, as amended by PL 1979, c. 512, § 27, is repealed.

Sec. 13. 17-A MRSA § 451, sub-§ 3-A is enacted to read:

3-A. In a prosecution under subsection 1, paragraph A, evidence that the allegedly false testimony in the prior official proceeding was contradicted by evidence in that proceeding may not be a sufficient basis by itself to sustain a conviction for perjury.

Sec. 14. 17-A MRSA § 452, sub-§ 2, 2nd sentence, as amended by PL 1979, c. 512, § 28, is repealed.

Sec. 15. 17-A MRSA § 452, sub-§ 2-A is enacted to read:

2-A. In a prosecution under subsection 1, paragraph A, evidence that the allegedly false testimony or statement in the prior official proceeding or before a notary or other person authorized to administer oaths may not be a sufficient basis by itself to sustain a conviction.

Sec. 16. 17-A MRSA § 453, sub-§ 1, ¶A, as enacted by PL 1975, c. 499, § 1, is amended to read:

A. He makes a written false statement which he does not believe to be true, on or pursuant to, a form conspicuously bearing notification authorized by statute or regulation to the effect that false statements made therein are punishable; ~~or~~

Sec. 17. 17-A MRSA § 453, sub-§ 1, ¶B, sub-¶(1), as enacted by PL 1975, c. 499, § 1, is amended to read:

(1) makes any written false statement which he does not believe to be true, provided, however, that this subsection does not apply in the case of a written false statement made to a law enforcement officer by a person then in official custody and suspected of having committed a crime, **except as provided in paragraph C**; or

Sec. 18. 17-A MRSA § 453, sub-§ 1, ¶B, sub-¶(3), as enacted by PL 1975, c. 499, § 1, is amended to read:

(3) submits or invites reliance on any sample, specimen, map, boundary mark or other object which he knows to be false; or

Sec. 19. 17-A MRSA § 453, sub-§ 1, ¶ C is enacted to read:

C. With the intent to conceal his identity from a law enforcement officer while under arrest for a crime, after having been warned that it is a crime to give false information concerning identity, he gives false information concerning his name or date of birth, including, but not limited to, a signature.

Sec. 20. 17-A MRSA § 506, sub-§ 1, ¶ D, as repealed and replaced by PL 1975, c. 740, § 66, is amended to read:

D. He makes repeated telephone calls, during which conversation ensues, solely with the intent to harass any person at the called number; or

Sec. 21. 17-A MRSA § 703, sub-§ 2, as amended by PL 1977, c. 510, § 58, is repealed and the following enacted in its place:

2. Violation of this section is a Class C crime if the actor has 2 prior convictions for any combination of theft, violation of this section, violation of section 702 or 708, or attempts thereat. Determination of whether a conviction constitutes a prior conviction for purposes of this subsection shall be pursuant to section 362, subsection 3, paragraph C. Forgery is otherwise a Class D crime.

Sec. 22. 17-A MRSA § 708, sub-§ 4, as last amended by PL 1977, c. 510, § 59, is repealed and the following enacted in its place:

4. Violation of this section is a Class C crime if the actor has 2 prior convictions for any combination of theft, a violation of section 702, 703 or this section, or attempts thereat. Determination of whether a conviction constitutes a prior conviction for purposes of this subsection shall be pursuant to section 362, subsection 3, paragraph C. Negotiating a worthless instrument is otherwise a Class D crime.

Sec. 23. 17-A MRSA § 753, sub-§ 2-A is enacted to read:

2-A. Hindering apprehension when the other person has committed a crime against another jurisdiction shall be graded as in subsection 2. For purposes of this subsection, the classification of the crime of the other jurisdiction shall be determined according to the formula contained in section 4-A, subsection 3, as if it were a crime of this jurisdiction outside this Code.

Sec. 24. 17-A MRSA § 1107, sub-§ 1, first sentence, as enacted by PL 1975, c. 499, § 1, is amended to read:

A person is guilty of unlawful possession of a scheduled drug if he intentionally or knowingly possesses ~~a useable amount~~ of what he knows or believes to be a scheduled drug, and which is, in fact, a scheduled drug, unless the conduct which constitutes such possession is either:

Sec. 25. 17-A MRSA § 1253, sub-§ 1-A, as enacted by PL 1979, c. 701, § 31, is amended to read:

1-A. When a person who has been previously sentenced in another jurisdiction has not commenced or completed that sentence, the court, subject to section 1155, subsection 1, may, **with consideration of the factors stated in section 1155, subsection 2**, sentence the person to a term of imprisonment which shall be treated as a concurrent sentence from the date of sentencing although the person is incarcerated in an institution of the other jurisdiction. **No concurrent sentence pursuant to this subsection may be imposed unless the person being sentenced consents or unless the person being sentenced executes, at the time of sentencing, a written waiver of extradition for his return to this State upon completion of the sentence of the other jurisdiction, if any portion of this state's sentence remains unserved.** In the absence of an order pursuant to this subsection requiring concurrent sentences, any sentence of imprisonment in this State shall commence as provided in subsection 1 and shall run consecutively to the sentence of the other jurisdiction. Subsections 3-A, 3-B and 4 shall apply and shall be administered by the supervising officer of this state's institution to which the person is sentenced. If the person is released from imprisonment under the sentence of the other jurisdiction prior to the termination of this state's sentence, the remainder of this state's sentence shall be served in the institution in this State to which the person was sentenced.

Sec. 26. 17-A MRSA § 1253, sub-§ 2-A is enacted to read:

2-A. For the purposes of calculating imprisonment of less than 30 days, when used by the sentencing court, "day" means 24 hours.

Sec. 27. 17-A MRSA § 1301, sub-§ 3, as amended by PL 1975, c. 740, § 123, is repealed and the following enacted in its place:

3. If the defendant convicted of a crime is an organization and the statute which it is convicted of violating expressly provides that the fine it authorizes may not be suspended, the organization shall be sentenced to pay the fine authorized therein. Otherwise, the maximum allowable fine which such a defendant may be sentenced to pay shall be:

- A.** Any amount for murder;
- B.** \$50,000 for a Class A crime;
- C.** \$20,000 for a Class B crime;
- D.** \$10,000 for a Class C crime;
- E.** \$5,000 for a Class D crime or a Class E crime; and

F. Any higher amount which does not exceed twice the pecuniary gain derived from the crime by the convicted organization.

Effective September 18, 1981

CHAPTER 318

S. P. 427 — L. D. 1249

AN ACT to Bring the Maine Traveler Information Services Act into Conformity with the United States Constitution.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, on December 22, 1980, the United States Court of Appeals for the First Circuit declared the Maine Traveler Information Services Act unconstitutional to the extent that it prohibits noncommercial speech by means of highway signs; and

Whereas, the absence of legislation controlling outdoor advertisements is detrimental to the preservation of scenic resources and is hazardous to highway users; and

Whereas, the absence of legislation controlling off-premises commercial outdoor advertising may render the State vulnerable to the imposition of a penalty of a reduction of 10% in its federal highway funds, pursuant to the provisions of the Federal Highway Beautification Act, United States Code, Title 23, Section 131(d); and

Whereas, the absence of legislation authorizing the Commissioner of Transportation to continue the compensated removal of off-premises commercial outdoor advertising signs, which began in the fall of 1979 and on which over \$2,000,000 of federal and state funds have been expended, jeopardizes the state's ability to obtain the federal funding necessary to complete the removal program; and

Whereas, the absence of legislation controlling off-premises commercial outdoor advertising may render the State vulnerable to having to repay all federal funds thus far provided for the compensated removal of commercial signs, which funds constitute 75% of the amount thus far expended; and

Whereas, although the State has taken an appeal of the decision of the First Circuit to the United States Supreme Court, the appeal may be terminated at any time, at which point the State will be without any legislation controlling or authorizing the removal of off-premises commercial outdoor advertising signs; and