

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH
IN ACCORDANCE WITH MAINE REVISED STATUTES
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 16, 1983.

CHAPTER 450

H.P. 1035 - L.D. 1360

AN ACT to Amend Various Provisions of
the Maine Criminal Code.

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

Sec. 1. 17-A MRSA §15, sub-§1, ¶A, as amended by PL 1979, c. 677, §§2 and 18, is further amended to read:

A. Any person who he has probable cause to believe has committed or is committing:

- (1) Murder;
- (2) Any Class A, Class B or Class C crime;
- (3) Assault while hunting;
- (4) Any offense defined in chapter 45;
- (5) Assault, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;
- (5-A) Assault, criminal threatening, terrorizing or reckless conduct, if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 15, section 301 ~~This subparagraph is repealed on November 17, 1983;~~
- (6) Theft as defined in section 357, when the value of the services is \$1,000 or less, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;
- (7) Forgery, if the officer reasonably

believes that the person will not be apprehended unless immediately arrested; or

(8) Negotiating a worthless instrument, if the officer reasonably believes that the person will not be apprehended unless immediately arrested; and

Sec. 2. 17-A MRSA §201, sub-§1-A is enacted to read:

1-A. For purposes of subsection 1, paragraph B, a person engages in conduct which manifests a depraved indifference to the value of human life when:

A. Either he knows that there is a very high degree of risk that his conduct will cause death or serious bodily injury, or a reasonable and prudent person in his situation would know of that risk; and

B. His conduct, when viewed in light of the totality of the circumstances, reflects such an indifference to the value of human life that it would be generally regarded by a reasonable and prudent person as depraved.

As used in paragraph B, "totality of the circumstances" means the nature and purpose of the actor's conduct, the circumstances known to the actor and the circumstances which would have been apparent to a reasonable and prudent person in the actor's situation. "Depraved" means outrageous, revolting, savage, brutal or shocking, readily demonstrating an almost total lack of concern or appreciation for the value of human life.

Sec. 3. 17-A MRSA §452, sub-§2-A, as enacted by PL 1981, c. 317, §15, is amended 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 was contradicted by evidence in that proceeding may not be a sufficient basis by itself to sustain a conviction for false swearing.

Sec. 4. 17-A MRSA §802, sub-§1, ¶B, as enacted by PL 1975, c. 499, §1, is amended to read:

B. On his own property or the property of another

(1) with the intent to enable any person to collect insurance proceeds for the loss

caused by the fire or explosion; or

(2) ~~in conscious disregard of a substantial risk that his conduct will endanger any person or damage or destroy the property of another which recklessly endangers any person or the property of another.~~

Sec. 5. 17-A MRSA §1206, sub-§5, as repealed and replaced by PL 1977, c. 510, §73, is amended to read:

5. When the alleged violation constitutes a crime for which the person on probation has not been convicted, the court may revoke probation if it finds by a preponderance of the evidence that the person on probation committed the crime. If the person is subsequently convicted of the crime, or any other crime or crimes arising out of the same conduct, sentencing shall be subject to the requirements of section ~~1155~~ 1256. If concurrent terms of imprisonment are imposed and the terms do not commence on the same date, any time served as a result of the probation revocation shall be deducted from the time the person is required to serve as a result of the new conviction.

Sec. 6. 17-A MRSA §1206, sub-§6, as repealed and replaced by PL 1977, c. 510, §73, is amended to read:

6. If the alleged violation does not constitute a crime and the court finds by a preponderance of the evidence that the person has inexcusably failed to comply with a requirement imposed as a condition of probation, it may revoke probation. ~~In such case, the court shall impose the sentence that was suspended when probation was granted.~~

Sec. 7. 17-A MRSA §1206, sub-§7, as amended by PL 1979, c. 512, §42, is further amended to read:

7. If a person on probation is convicted of a new crime during the period of probation, the court may sentence him for such crime and revoke probation. If the person has been sentenced for the new crime and probation revocation proceedings are subsequently commenced, the court which conducts the revocation hearing may revoke probation. Sentencing for the multiple offenses shall be subject to section ~~1155~~ 1256. If concurrent terms of imprisonment are imposed and the terms do not commence on the same date, any time served as a result of the new conviction shall be deducted from the time the person is required to serve as a result of the probation revocation.

Sec. 8. 17-A MRSA §1206, sub-§7-A, as enacted by PL 1979, c. 512, §43, is amended to read:

7-A. Upon revocation of probation pursuant to subsections subsection 5, 6 or 7, the court may impose all of the sentence which was suspended when probation was granted or it may impose a portion thereof vacate, in whole or in part, the suspension of execution as to imprisonment or fine specified when probation was granted, considering the nature of the violation and the reasons for granting probation. The remaining portion of the sentence for which suspension of execution is not imposed vacated upon the revocation of probation shall remain suspended and subject to revocation at a later date. During the service of the that portion of the sentence imposed for which the suspension of execution was vacated upon revocation, the running of the period of probation shall be interrupted and shall resume again upon release. The court may nevertheless revoke probation and impose vacate the suspension of execution as to the remainder of the suspended sentence or a portion thereof for any criminal conduct committed during the service of the that portion imposed of the sentence for which the suspension of execution was vacated upon revocation.

Sec. 9. 17-A MRSA §1206, sub-§8, as enacted by PL 1977, c. 510, §73, is amended to read:

8. Whenever a person is detained in any state or county institution pending a probation revocation proceeding, such period of detention shall be deducted from the time the person is required to serve under the sentence imposed that portion of the sentence for which the suspension of execution was vacated as a result of the probation revocation.

Sec. 10. 17-A MRSA §1253, sub-§2, as amended by PL 1977, c. 671, §31, is further amended to read:

2. When a person sentenced to imprisonment has previously been detained to await trial, in any state or county institution, or local lock-up, for the conduct for which such the sentence is imposed, such the period of detention shall be deducted from the time he is required to be imprisoned under such that sentence. The attorney representing the State shall furnish the court, at the time of sentence, a statement showing the length of such that detention, and the statement shall be attached to the official records of the commitment.

When a person sentenced to imprisonment is detained at a county jail or other place of detention by virtue of that commitment either to await transportation to the place of imprisonment specified by the sentence of the court, or pursuant to court order, the period of detention shall be deducted from the time he is required to be imprisoned under that sen-

tence. The sheriff or other person upon whom the legal duty is imposed to deliver that sentenced person, shall, at the time of the delivery, furnish to the department a statement showing the length of that detention. In addition, the transporter shall, without needless delay, furnish to the sentencing court the same statement and that statement shall be attached to the official records of the commitment.

Effective September 23, 1983.

CHAPTER 451

H.P. 1094 - L.D. 1440

AN ACT Concerning the Stopping of Trucks at Roadside Weighing Points.

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

Whereas, the highway cost allocation study clearly recommended accurate appraisal of truck weights because of their effect on Maine roads; and

Whereas, effective enforcement of truck weight limits is necessary and trucks must be directed to stop at designated roadside weighing points; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

29 MRSA §1801, as amended by PL 1979, c. 588, §1, is further amended to read:

§1801. Weighing points

The Chief of the State Police shall may designate, of his own motion or by order of the Governor certain state police officers who will be empowered to examine loads and replace seals as provided by section 1802.