

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2007

All notices and requests provided pursuant to this subsection must be made by personal delivery or certified mail and must conspicuously state the consequences of the taxpayer's failure to respond to the notice or request in a timely manner.

If an exemption has already been accepted and the State Tax Assessor subsequently determines that the property is not entitled to exemption, a supplemental assessment must be made within 3 years of the original assessment date with respect to the property in compliance with section 713, without regard to the limitations contained in that section regarding the justification necessary for a supplemental assessment.

See title page for effective date.

CHAPTER 436

S.P. 571 - L.D. 1627

An Act To Protect Families and Enhance Public Safety by Making Domestic Violence a Crime

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to allow sufficient time for review of the process and availability of data to determine the cost of new criminal penalties; and

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to allow sufficient time to report the findings of the review to determine the cost of new criminal penalties; 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:

Sec. 1. 17-A MRSA §207-A is enacted to read:

§207-A. Domestic violence assault

1. A person is guilty of domestic violence assault if:

A. The person violates section 207 and the victim is a family or household member as defined in Ti-

tle 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and at the time of the offense:

(1) The person has one or more prior convictions for violating paragraph A or for violating section 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 209-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. 2. 17-A MRSA §209-A is enacted to read:

§209-A. Domestic violence criminal threatening

1. A person is guilty of domestic violence criminal threatening if:

A. The person violates section 209 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and at the time of the offense:

(1) The person has one or more prior convictions for violating paragraph A or for violating section 207-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. 3. 17-A MRSA §210-B is enacted to read:

§210-B. Domestic violence terrorizing

1. A person is guilty of domestic violence terrorizing if:

A. The person violates section 210 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and at the time of the offense:

(1) The person has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. 4. 17-A MRSA §210-C is enacted to read:

§210-C. Domestic violence stalking

1. A person is guilty of domestic violence stalking if:

A. The person violates section 210-A and the victim is a family or household member as de-

finied in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and at the time of the offense:

(1) The person has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-B or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. 5. 17-A MRSA §211-A is enacted to read:

§211-A. Domestic violence reckless conduct

1. A person is guilty of domestic violence reckless conduct if:

A. The person violates section 211 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or

B. The person violates paragraph A and at the time of the offense:

(1) The person has one or more prior convictions for violating paragraph A or for violating section 207-A, 209-A, 210-B or 210-C or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 209-A, 210-B or 210-C in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction; or

(3) Has one or more prior convictions for violating Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or subparagraph (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4.

Violation of this paragraph is a Class C crime.

2. Section 9-A governs the use of prior convictions when determining a sentence.

Sec. 6. Review process and availability of data to determine the cost of new criminal penalties. The Office of Fiscal and Program Review, the Department of Corrections and the Judicial Department shall jointly review bills carried over from the First Regular Session of the 123rd Legislature that have a potential impact to future inmate populations of correctional facilities. The Director of the Office of Fiscal and Program Review or the director's designee shall chair the review and shall convene the first meeting no later than August 15, 2007. The objective of the review is to identify and implement within existing resources where possible the factors, processes and data that would assist in more accurately forecasting the cost of changes in law of criminal penalties. The Office of Fiscal and Program Review shall staff the review and report the findings on or about November 15, 2007 to the Joint Standing Committee on Appropriations and Financial Affairs, the Joint Standing Committee on Criminal Justice and Public Safety and the Joint Standing Committee on Judiciary.

Sec. 7. Effective date. Those sections of this Act that enact the Maine Revised Statutes, Title 17-A, sections 207-A, 209-A, 210-B, 210-C and 211-A take effect February 1, 2008.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective June 27, 2007.

CHAPTER 437

H.P. 1054 - L.D. 1504

An Act To Make Minor Substantive Changes to the Tax Laws

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

Sec. 1. 30-A MRSA §5681, sub-§2, ¶C, as amended by PL 2005, c. 2, Pt. G, §1 and affected by §2, is further amended to read:

C. "Annual growth ceiling" for fiscal year 2005-06 means \$100,000,000. For subsequent fiscal

years, "annual growth ceiling" must be determined by the State Tax Assessor by September 1st annually and means the annual growth ceiling for the previous fiscal year adjusted by the lower of the ~~increase percentage change~~ for the previous fiscal year in the Consumer Price Index ~~or compared to the fiscal year immediately preceding the previous fiscal year and the increase percentage change~~ in receipts for the previous fiscal year from the taxes imposed under Title 36, Parts 3 and 8 and Title 36, section 2552, subsection 1, paragraphs A to F and credited to the General Fund compared to the fiscal year immediately preceding the previous fiscal year. The annual growth ceiling may not be less than the annual growth ceiling for the previous year.

Sec. 2. 36 MRSA §182, sub-§1, as enacted by PL 2001, c. 583, §8, is amended to read:

1. Generally. The State Tax Assessor may, through the Attorney General, file an action in Superior Court applying for an order to enjoin from doing business any person who has:

A. Failed to register with the ~~bureau~~ assessor when the person is required to register by any provision of Part 3 ~~or, chapter 358 or~~ Part 5 or by any rule adopted pursuant to this Title, ~~provided that~~ as long as the assessor has provided written notice and the person continues to fail to register 15 days after receiving notice from the assessor of such failure;

B. Failed to file with the assessor any overdue return required by Part 3 ~~or, chapter 358 or~~ Part 5 within 15 days after receiving notice from the assessor of such failure;

C. Failed to pay any tax required by Part 3 ~~or, chapter 358 or~~ Part 5 when the tax is shown to be due on a return filed by that person, or that is otherwise conceded by that person to be due, or has been determined by the assessor to be due and that determination has become final;

D. Knowingly filed a false return required by Part 3 ~~or, chapter 358 or~~ Part 5; or

E. Failed to deduct and withhold, or truthfully account for or pay over or make returns of, income taxes in violation of the provisions of chapter 827.

Sec. 3. 36 MRSA §187-B, sub-§1-A is enacted to read:

1-A. Failure to file information return. Any partnership or S corporation that fails to make and file an information return required by section 5241 and that has received from the assessor a formal demand that the return be filed is liable for one of the following penalties: