

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

Sec. E-3. 5 MRSA §3360, sub-§3, ¶I is enacted to read:

I. Causing a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C.

PART F

Sec. F-1. Attorney General's working group on human trafficking; report. The Attorney General shall convene a working group on human trafficking consisting of representatives of the following: the Department of Health and Human Services, the Department of Labor, the Department of Public Safety, the Maine Institute for Public Safety Innovation, law enforcement, immigrant legal services, interested parties, other state agencies and service providers, including, but not limited to, health care, domestic violence and sexual assault victim advocates and other social service providers. The working group shall:

1. Develop training for law enforcement and community organizations;
2. Develop outreach and public awareness campaigns;
3. Work on options and initiatives for data collection;
4. Determine the need for victim and witness laws, victims' services and obtaining special visa status for victims who are undocumented immigrants, the coordination of services and the coordination of state and federal victim services programs for benefits, programs and licenses;
5. Monitor the actions of international matchmaking organizations to determine if state intervention or regulation is necessary; and
6. Determine whether a special tolling statute based on cultural and linguistic isolation would be appropriate for pursuing civil remedies under the Maine Revised Statutes, Title 5, chapter 337-C.

The working group shall report to the Second Regular Session of the 124th Legislature by January 15, 2010.

Sec. F-2. Effective date. This Part takes effect 90 days after the adjournment of the Second Regular Session of the 123rd Legislature.

PART G

Sec. G-1. Criminal Code Revision Commission. By March 1, 2009, the joint standing committee of the Legislature having jurisdiction over criminal justice and public safety matters, after consultation with the joint standing committee of the Legislature having jurisdiction over judiciary matters and the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs, shall submit legislation to the First Regular Session of

the 124th Legislature establishing the Criminal Code Revision Commission, for the purpose of reviewing, revising, unifying, recodifying and consolidating Maine's criminal laws, including, but not limited to, the Maine Criminal Code. The commission shall:

1. Examine all sections of the Maine Criminal Code and all crimes outside the Maine Criminal Code;
2. Evaluate the operation of the Maine Criminal Code in an effort to revise the Maine Criminal Code as necessary to ensure clarity, consistency, generalization in defining prohibited conduct, that all penalties and punishments are proportioned to the offense and equity in sentencing. The commission shall recommend amendments to the Maine Criminal Code based on such evaluation and amendments to other criminal statutes outside the Maine Criminal Code; and
3. Examine any other aspects of Maine's criminal law, including substantive, procedural and administrative matters, that the commission determines relevant.

The legislation must provide that the Criminal Code Revision Commission may accept federal and other grants to carry out its responsibilities.

PART H

Sec. H-1. Effective date. Except as otherwise indicated, this Act takes effect January 1, 2009.

Effective January 1, 2009, unless otherwise indicated.

CHAPTER 685

S.P. 681 - L.D. 1873

An Act To Amend the Laws Governing Stalking

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

Sec. 1. 17-A MRSA §210-A, as amended by PL 2001, c. 471, Pt. B, §9 and affected by §10 and c. 667, Pt. D, §§35 and 36, is further amended to read:

§210-A. Stalking

1. A person is guilty of stalking if:
 - A. The actor intentionally or knowingly engages in a course of conduct directed at or concerning a specific person that would ~~in fact~~ cause ~~both~~ a reasonable person ~~and that other specific person~~:
 - (1) To suffer ~~intimidation or~~ serious inconvenience, ~~annoyance or alarm~~ or emotional distress;
 - (2) To fear bodily injury or to fear bodily injury to a ~~member of that person's immediate family~~ close relation; ~~or~~

(3) To fear death or to fear the death of a ~~member of that person's immediate family, close relation;~~

(4) To fear damage or destruction to or tampering with property; or

(5) To fear injury to or the death of an animal owned by or in the possession and control of that specific person.

Violation of this paragraph is a Class D crime. ~~The court shall impose a sentencing alternative involving a term of imprisonment of at least 60 days, of which 48 hours may not be suspended, and may order the person to attend an abuser education program approved by the court; or~~

C. The actor violates paragraph A and has 2 or more prior convictions in this State or another jurisdiction.

Violation of this paragraph is a Class C crime. ~~The court shall impose a sentencing alternative involving a term of imprisonment of at least 6 months, of which 14 days may not be suspended, and may order the person to attend an abuser education program approved by the court.~~

For the purposes of this paragraph, "prior conviction" means a conviction for a violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19, section 769; Title 19-A, section 4011; Title 22, section 4036; any other temporary, emergency, interim or final protective order; an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation; any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe; or a court-approved consent agreement. Section 9-A governs the use of prior convictions when determining a sentence.

2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Course of conduct" means ~~repeatedly maintaining a visual or physical proximity to a person or repeatedly conveying oral or written threats, threats implied by conduct or a combination of threats and conduct directed at or toward a person. For purposes of this section, "conveying oral or written threats" includes, but is not limited to, communicating or causing a communication to be initiated by mail or by mechanical or electronic means 2 or more acts, including but not limited to acts in which the actor, by any action, method, device or means, directly or indirectly follows, monitors, tracks, observes, surveils, threatens, harasses or communicates to or about a person or interferes with a person's property. For purposes of this section, "course~~ "Course of conduct" also

includes, but is not limited to, threats implied by conduct and gaining unauthorized access to personal, medical, financial or other identifying or confidential information, including access by computer network, mail, telephone or written communication. "Course of conduct" does not include activity protected by the Constitution of Maine, the United States Constitution or by state or federal statute.

B. ~~"Immediate family"~~ "Close relation" means a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent or, grandparent, any person who regularly resides in the household or who within the prior 6 months regularly resided in the household or any person with a significant personal or professional relationship.

~~C. "Repeatedly" means on 2 or more occasions.~~

D. "Emotional distress" means mental or emotional suffering of the person being stalked as evidenced by anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of emotional distress or a mental health diagnosis.

E. "Serious inconvenience" means that a person significantly modifies that person's actions or routines in an attempt to avoid the actor or because of the actor's course of conduct. "Serious inconvenience" includes, but is not limited to, changing a phone number, changing an electronic mail address, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule or losing time from work or a job.

Sec. 2. 17-A MRSA §1252, sub-§5-D is enacted to read:

5-D. In using a sentencing alternative involving a term of imprisonment for a person convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that person, a court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum period of incarceration in the 2nd step in the sentencing process.

Sec. 3. Legislative intent. The Legislature finds that stalking is a serious problem in Maine and nationwide. Stalking can lead to death, sexual assault, physical assault and property damage. Stalking can involve persons who have had an intimate relationship as well as persons who have had no past relationship. Stalking can result in great stress and fear in the victim and often involves severe intrusions on the victim's personal privacy and autonomy. Stalking can have immediate and long-lasting impact on the quality of

life and safety of the victim and persons close to the victim.

By enacting these amendments, the Legislature intends to better protect victims from being intentionally harassed, terrified, threatened or intimidated by individuals who use a wide variety of methods to track, threaten and harass their victims. The goal is to authorize effective criminal intervention before stalking behavior results in serious physical and emotional harm and to increase penalties for escalating stalking behavior. One amendment is intended to make clear that stalking is criminal whether or not the victim knows about the stalking conduct.

The new provisions are drafted broadly to capture all stalking activity, including a stalker's use of new technologies. Presently, some stalkers use Global Positioning Satellite technology to monitor actions, disposable cell phones to make untraceable calls and keyloggers to capture private information from computers. In the future, new technologies not currently imagined will be used to the same ends. The Legislature intends that the use of such new technology be covered by this legislation.

See title page for effective date.

CHAPTER 686

S.P. 691 - L.D. 1897

An Act To Allow Blended Sentencing for Certain Juveniles

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

Sec. 1. 17-A MRSA §1259 is enacted to read:

§1259. Commitments to the Department of Corrections of bound-over juveniles who have not attained 16 years of age at the time of sentence imposition

A juvenile who has been bound over, pursuant to Title 15, section 3101, subsection 4, for a juvenile crime for which the juvenile had the burden of proof with respect to the finding of appropriateness, who is subsequently, as to the juvenile crime's adult counterpart, convicted and sentenced to a sentence alternative involving imprisonment and who has not attained 16 years of age at the time of sentence imposition must be committed to a Department of Corrections juvenile correctional facility for an indeterminate period not to extend beyond the juvenile's 18th birthday to serve the term of imprisonment or any unsuspended portion until discharge from the juvenile correctional facility and once discharged must be transferred to a Department of Corrections adult correctional facility to serve

out the remainder of the imprisonment term or unsuspended portion, if any.

Sec. 2. 34-A MRSA §3802, sub-§1, ¶G, as amended by PL 2007, c. 196, §7, is further amended to read:

G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115; ~~and~~

Sec. 3. 34-A MRSA §3802, sub-§1, ¶H, as enacted by PL 2007, c. 196, §7, is amended to read:

H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7; and

Sec. 4. 34-A MRSA §3802, sub-§1, ¶I is enacted to read:

I. To confine juveniles committed to a juvenile correctional facility pursuant to Title 17-A, section 1259.

Sec. 5. 34-A MRSA §4102-A, sub-§1, ¶G, as amended by PL 2007, c. 196, §8, is further amended to read:

G. To confine juveniles ordered confined pursuant to Title 12, sections 6004, 8004 and 10608 and Title 29-A, section 115; ~~and~~

Sec. 6. 34-A MRSA §4102-A, sub-§1, ¶H, as enacted by PL 2007, c. 196, §8, is amended to read:

H. To confine juveniles ordered confined pursuant to Title 15, section 3314, subsection 7; and

Sec. 7. 34-A MRSA §4102-A, sub-§1, ¶I is enacted to read:

I. To confine juveniles committed to a juvenile correctional facility pursuant to Title 17-A, section 1259.

See title page for effective date.

CHAPTER 687

H.P. 1520 - L.D. 2140

An Act To Protect Parties to Real Estate Transactions

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

Sec. 1. 36 MRSA §558-A is enacted to read:

§558-A. Liability for failure to pay prorated property taxes

1. Civil action authorized. If after a real estate closing in which the parties have prorated property taxes pursuant to section 558, any party knowingly fails to pay that party's share of the taxes, which results in a lien being filed, any other party to the trans-