

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2014 to July 16, 2015

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 15, 2015

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

Augusta, Maine
2015

and the Revisor of Statutes that written approval of the state plan amendment has been received.

See title page for effective date, unless otherwise indicated.

CHAPTER 357

S.P. 160 - L.D. 431

An Act To Strengthen the Laws Prohibiting Stalking

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

Sec. 1. 17-A MRSA §210-A, sub-§1, ¶A, as amended by PL 2007, c. 685, §1, is further amended to read:

A. The actor intentionally or knowingly engages in a course of conduct directed at or concerning a specific person that would cause a reasonable person:

- (1) To suffer serious inconvenience or emotional distress;
- (2) To fear bodily injury or to fear bodily injury to a close relation;
- (3) To fear death or to fear the death of a 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; ~~or~~

Sec. 2. 17-A MRSA §210-A, sub-§1, ¶C, as amended by PL 2009, c. 336, §11, is further amended to read:

C. The actor violates paragraph A and has 2 one or more prior convictions in this State or another jurisdiction. Notwithstanding section 2, subsection 3-B, as used in this paragraph, "another jurisdiction" also includes any Indian tribe.

Violation of this paragraph is a Class C crime. In determining the sentence for a violation of this paragraph the court shall impose a sentence of imprisonment by using a 2-step process. In the first step the court shall determine a base term of imprisonment of one year. In the 2nd step the court shall determine and impose a term of imprisonment for the defendant the length of which is appropriate for the defendant after consideration of the factors required by section 1252, subsection 5-D and aggravating and mitigating factors, including, but not limited to, the character of the de-

fendant and the defendant's criminal history, the effect of the offense on the victim and the protection of the public interest.

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;

Sec. 3. 17-A MRSA §210-A, sub-§1, ¶¶D and E are enacted to read:

D. The actor violates paragraph A and the course of conduct is directed at or concerning 2 or more specific persons that are members of an identifiable group.

Violation of this paragraph is a Class C crime; or

E. The actor violates paragraph C and at least one prior conviction was for a violation of paragraph D.

Violation of this paragraph is a Class B crime. In determining the sentence for a violation of this paragraph the court shall impose a sentence of imprisonment by using a 2-step process. In the first step the court shall determine a base term of imprisonment of 2 years. In the 2nd step the court shall determine and impose a term of imprisonment for the defendant the length of which is appropriate for the defendant after consideration of the factors required by section 1252, subsection 5-D and aggravating and mitigating factors, including, but not limited to, the character of the defendant and the defendant's criminal history, the effect of the offense on the victim and the protection of the public interest.

See title page for effective date.

CHAPTER 358

H.P. 351 - L.D. 512

An Act To Implement Certain Recommendations of the Criminal Law Advisory Commission Relative to the Maine Criminal Code

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

Sec. 1. 17-A MRSA §208, as amended by PL 2011, c. 640, Pt. B, §2, is further amended to read:

§208. Aggravated assault

1. A person is guilty of aggravated assault if ~~he~~ that person intentionally, knowingly, or recklessly causes:

A. ~~Serious bodily~~ Bodily injury to another ~~that creates a substantial risk of death or extended convalescence necessary for recovery of physical health.~~ Violation of this paragraph is a Class B crime; ~~or~~

A-1. Bodily injury to another that causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ. Violation of this paragraph is a Class A crime;

B. Bodily injury to another with use of a dangerous weapon. Violation of this paragraph is a Class B crime; or

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, the manner or method inflicted, the observable physical condition of the victim or the use of strangulation. For the purpose of this paragraph, "strangulation" means the intentional impeding of the breathing or circulation of the blood of another person by applying pressure on the person's throat or neck. Violation of this paragraph is a Class B crime.

~~2. Aggravated assault is a Class B crime.~~

Sec. 2. 17-A MRSA §505, sub-§2, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

2. As used in this section, "public way" means a way, including a sidewalk, owned and maintained by the State, a county or a municipality over which the general public has a right to pass by foot or by vehicle or a way under the control of park commissioners or a body having like powers.

Sec. 3. 17-A MRSA §554, as amended by PL 2005, c. 373, §§1 and 2, is further amended to read:

§554. Endangering the welfare of a child

1. A person is guilty of endangering the welfare of a child if that person:

A. Knowingly permits a child ~~under 16 years of age~~ to enter or remain in a house of prostitution. Violation of this paragraph is a Class D crime;

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes,

tobacco, air rifles, gunpowder, smokeless powder or ammunition for firearms. Violation of this paragraph is a Class D crime;

~~B-1. Being the parent, foster parent, guardian or other person having the care and custody of the child, cruelly treats that child by abuse, neglect or extreme punishment;~~

B-2. Being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child ~~under 16~~, recklessly fails to take reasonable measures to protect the child from the risk of further bodily injury after knowing:

(1) That the child had, in fact, sustained serious bodily injury or bodily injury under circumstances posing a substantial risk of serious bodily injury; and

(2) That such bodily injury was, in fact, caused by the unlawful use of physical force by another person;

Violation of this paragraph is a Class C crime;

B-3. Being the parent, foster parent, guardian or other person having the care and custody of ~~the a~~ child, knowingly deprives the child of necessary health care, with ~~the a~~ result that the child is placed in danger of serious harm. Violation of this paragraph is a Class D crime; or

C. Otherwise recklessly endangers the health, safety or welfare of ~~a the~~ child ~~under 16 years of age~~ by violating a duty of care or protection. Violation of this paragraph is a Class D crime.

2. It is an affirmative defense to prosecution under this section that:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of ~~a the~~ child under 16 years of age who furnished the child cigarettes, tobacco or a reasonable amount of intoxicating liquor in the actor's home and presence;

B. The defendant was a person acting pursuant to authority expressly or impliedly granted in Title 22; or

C. The defendant was the parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian who furnished ~~a the~~ child under 16 years of age an air rifle, gunpowder, smokeless powder or ammunition for a firearm for use in a supervised manner.

~~3. Endangering the welfare of a child is a Class D crime, except that a violation of subsection 1, paragraph B-2 is a Class C crime.~~

Sec. 4. 17-A MRSA §1201, sub-§1, ¶A-3 is enacted to read:

A-3. The court sentences the person to a term of imprisonment followed by a period of supervised release as authorized by chapter 50;

Sec. 5. 17-A MRSA §1206, sub-§7-B, as enacted by PL 1989, c. 728, §1, is repealed.

Sec. 6. 17-A MRSA §1231, sub-§6, as amended by PL 2007, c. 344, §4, is further amended to read:

6. The court may revoke a period of supervised release pursuant to section 1233 for any ground specified in subsection 7. If the court revokes a period of supervised release, the court shall require the person to serve time in prison under the custody of the Department of Corrections. This time in prison may equal all or part of the period of supervised release, without credit for time served on post-release supervision. The remaining portion of the period of supervised release that is not required to be served in prison ~~remains in effect to be served, if any, may not run during the time in prison and must resume again~~ after the person's release and is subject to revocation at a later date.

Sec. 7. 17-A MRSA §1252, sub-§4-E, as enacted by PL 2005, c. 673, §4, is amended to read:

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years. The court shall also impose as part of the sentence a period of supervised release to immediately follow that definite term of imprisonment as mandated by section 1231.

See title page for effective date.

CHAPTER 359

H.P. 406 - L.D. 582

An Act To Establish a State Educational Medicaid Officer

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

Sec. 1. 22 MRSA §3174-YY is enacted to read:

§3174-YY. State educational Medicaid officer

The commissioner shall designate an appropriate employee within the department as the state educational Medicaid officer to work in coordination with the Department of Education and school administra-

tive units to maximize reimbursement for Medicaid services provided by school administrative units.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

HEALTH AND HUMAN SERVICES, DEPARTMENT OF (FORMERLY DHS)

Office of MaineCare Services 0129

Initiative: Provides funding for a Comprehensive Health Planner II position to serve as a liaison between the State and school administrative units to help schools alleviate the challenges in navigating the complexity of MaineCare billing and improve communication.

GENERAL FUND	2015-16	2016-17
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$30,970	\$42,292
All Other	\$2,355	\$3,139
GENERAL FUND TOTAL	\$33,325	\$45,431

FEDERAL EXPENDITURES FUND	2015-16	2016-17
POSITIONS - LEGISLATIVE COUNT	1,000	1,000
Personal Services	\$30,970	\$42,292
All Other	\$2,355	\$3,139
FEDERAL EXPENDITURES FUND TOTAL	\$33,325	\$45,431

See title page for effective date.

CHAPTER 360

S.P. 244 - L.D. 651

An Act To Amend Maine's Sex Trafficking and Child Welfare Laws

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

Sec. 1. 17-A MRSA §853, sub-§1, ¶B, as enacted by PL 2013, c. 407, §3, is amended to read:

B. The person violates paragraph A and has 2 or more prior convictions in this State for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar con-