

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE**

**SECOND SPECIAL SESSION**  
**June 19, 2018 to September 13, 2018**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND SPECIAL SESSION**  
**NON-EMERGENCY LAWS IS**  
**DECEMBER 13, 2018**

**ONE HUNDRED AND TWENTY-NINTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 5, 2018 to June 20, 2019**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 19, 2019**

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

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**Augusta, Maine**  
**2019**

pursuant to Title 34-B, section 3862-A, subsection 6, paragraph D, subparagraph (3).

**Sec. C-2. 15 MRSA §393, sub-§1, ¶¶E-1 and E-2** are enacted to read:

E-1. Is currently a restricted person under Title 34-B, section 3862-A, subsection 2 or subsection 6, paragraph D except that the prohibition applies to possession and control, and not ownership. Violation of this paragraph is a Class D crime;

E-2. Has been ordered to participate in a progressive treatment program pursuant to Title 34-B, section 3873-A and, as part of that order, directed not to possess a dangerous weapon pursuant to Title 34-B, section 3873-A, subsection 7-A for the duration of the treatment program, except that the prohibition applies to possession and control, and not ownership. Violation of this paragraph is a Class D crime;

**Sec. C-3. 25 MRSA §2803-B, sub-§1, ¶L**, as amended by PL 2013, c. 147, §19, is further amended to read:

L. Mental illness and the process for involuntary commitment, and the process pursuant to Title 34-B, section 3862-A; and

**Sec. C-4. 25 MRSA §2804-C, sub-§2-E** is enacted to read:

**2-E. Receipt of certain dangerous weapons; training; procedure; liability.** Beginning in 2020, the Maine Criminal Justice Academy Board of Trustees shall require training as part of its mandated training schedule for municipal, county and state law enforcement officers regarding the process for protection from substantial threats by a restricted person and the proper handling, storage, safekeeping and return of dangerous weapons received pursuant to an endorsement or court order under Title 34-B, section 3862-A or 3873-A. The training must include education concerning the prohibitions on the purchase, control or possession of dangerous weapons. A law enforcement officer who receives custody of a dangerous weapon pursuant to Title 34-B, section 3862-A or 3873-A shall exercise reasonable care to avoid loss, damage or reduction in value of the weapon and may not permanently mark or fire the weapon unless there is reasonable suspicion that the weapon has been used in the commission of a crime. Any liability for damage or reduction in value to such a weapon is governed by Title 14, chapter 741.

**Sec. C-5. 34-B MRSA §3862, sub-§1, ¶B**, as amended by PL 2017, c. 402, Pt. C, §97 and affected by Pt. F, §1, is further amended to read:

B. If the law enforcement officer does take the person into protective custody, shall deliver the person immediately for examination by a medical practitioner as provided in section 3862-A or 3863

or, for a person taken into protective custody who has an advance health care directive authorizing mental health treatment, for examination as provided in Title 18-C, section 5-803, subsection 4 to determine the individual's capacity and the existence of conditions specified in the advance health care directive for the directive to be effective.

## PART D

**Sec. D-1. Assessments at alternative locations.** The executive branch shall work with medical practitioners and law enforcement to develop and release, by January 1, 2020, a request for proposals for the development and acquisition of the technology necessary to enable assessments under the Maine Revised Statutes, Title 34-B, section 3862-A at locations other than health care facilities.

**Sec. D-2. Database of restrictions.** By February 1, 2020, the Department of Public Safety shall develop a plan, including any cost estimates, to implement a database system to support this Act.

**Sec. D-3. Effective dates.** Parts A to C of this Act take effect July 1, 2020. This Part takes effect 90 days after the adjournment of the First Regular Session of the 129th Legislature.

See title page for effective date, unless otherwise indicated.

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## CHAPTER 412

### H.P. 19 - L.D. 18

#### An Act To Ensure Proper Prosecution of Crimes Involving Domestic Violence and Enhance Protection of Victims of Domestic Violence

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

**Whereas**, to ensure the necessary and proper prosecution of crimes in the State involving domestic violence and to enhance the protection of victims of domestic violence from their abusers, this legislation must take effect immediately; 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, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D, §1, is further amended to read:

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

(1) Has one or more prior convictions for violating paragraph A or for violating section 208-D, 208-E, 208-F, 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 208-D, 208-E, 208-F, 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;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (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; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

**Sec. 2. 17-A MRSA §§208-D, 208-E and 208-F** are enacted to read:

**§208-D. Domestic violence aggravated assault**

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

A. Violates section 208, subsection 1, paragraph A 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 B crime;

B. Violates section 208, subsection 1, paragraph A-1 and the victim is a family or household member as defined in Title 19-A, section 4002, subsec-

tion 4. Violation of this paragraph is a Class A crime;

C. Violates section 208, subsection 1, paragraph B 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 B crime; or

D. Violates section 208, subsection 1, paragraph C 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 B crime.

**§208-E. Domestic violence elevated aggravated assault**

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

A. The person violates section 208-B; and

B. The victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.

2. Violation of this section is a Class A crime.

**§208-F. Domestic violence elevated aggravated assault on pregnant person**

1. A person is guilty of domestic violence elevated aggravated assault on a pregnant person if:

A. The person violates section 208-C; and

B. The victim is a family or household member as defined in Title 19-A, section 4002, subsection 4.

2. Violation of this section is a Class A crime.

**Sec. 3. 17-A MRSA §209-A, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D, §2, is further amended to read:

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

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 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, 208-D, 208-E, 208-F, 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;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release vi-

olated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (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; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

**Sec. 4. 17-A MRSA §210-B, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D, §3, is further amended to read:

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

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 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, 208-D, 208-E, 208-F, 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;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (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; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially

similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

**Sec. 5. 17-A MRSA §210-C, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D, §4, is further amended to read:

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

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 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, 208-D, 208-E, 208-F, 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;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (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; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

**Sec. 6. 17-A MRSA §211-A, sub-§1, ¶B**, as amended by PL 2017, c. 432, Pt. D, §5, is further amended to read:

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

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 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, 208-D, 208-E, 208-F, 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;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (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; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime.

**Sec. 7. 19-A MRSA §4002, sub-§4**, as amended by PL 2015, c. 296, Pt. C, §24 and affected by Pt. D, §1, is further amended to read:

**4. Family or household members.** "Family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of Title 15, section 1023, subsection 4, paragraph B-1 and Title 15, section 1094-B, this chapter and Title 17-A, sections 15, 207-A, 208-D, 208-E, 208-F, 209-A, 210-B, 210-C, 211-A, 1201, 1202 and 1253 only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to

remain responsible indefinitely for each other's welfare.

**Sec. 8. 19-A MRSA §4011, sub-§5** is enacted to read:

**5. Repeat violations.** A person who commits a violation under subsection 1 and has 2 or more prior convictions under subsection 1 or 2 or more convictions for engaging in substantially similar conduct in another jurisdiction commits a Class C crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

**Sec. 9. 19-A MRSA §4012, sub-§5**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

**5. Arrest in certain situations.** When a law enforcement officer has probable cause to believe that there has been a criminal violation under section 4011 of a court-approved consent agreement or a protection order issued pursuant to this chapter or Title 15, chapter 12-A, or that a violation of Title 17-A, section ~~208~~ 208-D, 208-E, 208-F ~~has occurred between members of the same family or household~~ has occurred, that enforcement officer shall arrest and take into custody the alleged offender.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective June 20, 2019.

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**CHAPTER 413**

**H.P. 20 - L.D. 19**

**An Act To Require Newly Purchased Public School Buses To Be Equipped with School Bus Crossing Arms**

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

**Whereas**, it is necessary to enact this legislation before model year 2021 school buses become available for purchase to avoid requiring previously purchased school buses to be retrofitted with a school bus crossing arm; 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,