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## **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 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 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 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 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.