

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
S.P. 878 - L.D. 2085

An Act to Update Maine's Domestic Violence and Stalking Laws

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

Whereas, on June 27, 2023, the United States Supreme Court issued a decision in *Counterman v. Colorado*, which has raised questions as to the constitutionality of several of Maine's statutes; and

Whereas, the statutes implicated include critical components of the State's public safety response, specifically including its response to domestic violence and stalking; and

Whereas, citizens of the State rely on the Legislature to ensure a constitutionally sound criminal and civil justice system and failure to timely align the statutes with the new federal standard may result in unnecessary litigation in the State's already overburdened state court system; 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 §210, sub-§1, as amended by PL 2003, c. 143, §4, is further amended to read:

1. A person is guilty of terrorizing if that person ~~in fact~~ intentionally, knowingly or recklessly communicates to any person a threat to commit or to cause to be committed a crime of violence dangerous to human life, against the person to whom the communication is made or another, ~~and~~ consciously disregarding a substantial risk that the natural and probable consequence of such a threat, whether or not such consequence in fact occurs, is:

A. To place the person to whom the threat is communicated or the person threatened in reasonable fear that the crime will be committed. Violation of this paragraph is a Class D crime; or

B. To cause evacuation of a building, place of assembly or facility of public transport or to cause the occupants of a building to be moved to or required to remain in a designated secured area. Violation of this paragraph is a Class C crime.

Sec. 2. 17-A MRSA §210-A, sub-§2, ¶A, as amended by PL 2007, c. 685, §1, is repealed and the following enacted in its place:

A. "Course of conduct" 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:

- (1) Follows, monitors, tracks, observes, surveils or harasses a person;
- (2) Interferes with a person's property;
- (3) Threatens a person, consciously disregarding a substantial risk that the actor's conduct would cause a reasonable person to experience any of the effects identified in subsection 1, paragraph A; or
- (4) Communicates to or about a person, consciously disregarding a substantial risk that the actor's conduct would cause a reasonable person to experience any of the effects identified in subsection 1, paragraph A.

"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.

Sec. 3. 17-A MRSA §506, sub-§1, ¶A, as amended by PL 2017, c. 397, §1, is repealed and the following enacted in its place:

A. By means of telephone or electronic communication device the person intentionally, knowingly or recklessly makes any comment, request, suggestion or proposal without the consent of the person called or contacted:

- (1) That is, in fact, obscene; or
- (2) With conscious disregard of a substantial risk that a reasonable person would find the comment, request, suggestion or proposal offensively coarse.

Violation of this paragraph is a Class E crime;

Sec. 4. 19-A MRSA §4102, sub-§1, ¶B, as enacted by PL 2021, c. 647, Pt. A, §3 and affected by Pt. B, §65, is amended to read:

B. Attempting to place or placing another in fear of bodily injury, regardless of intent, through any course of conduct, including, but not limited to, threatening, harassing or tormenting behavior. When the course of conduct violates this paragraph based on the content of the actor's speech, the actor must have consciously disregarded a substantial risk that the speech would place a reasonable person in fear of bodily injury;

Sec. 5. 19-A MRSA §4102, sub-§1, ¶E, as enacted by PL 2021, c. 647, Pt. A, §3 and affected by Pt. B, §65, is amended to read:

E. Communicating to a person a threat to commit, or to cause to be committed, a crime of violence dangerous to human life against the person to whom the communication is made or another, and with conscious disregard of a substantial risk that the natural and probable consequence of the threat, whether or not that consequence in fact occurs, is

to place the person to whom the threat is communicated, or the person against whom the threat is made, in reasonable fear that the crime will be committed;

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