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An Act To Implement Certain Recommendations of the Criminal Law Advisory Commission

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

Sec. 1. 15 MRSA §1094-A is enacted to read:

§ 1094-A. Improper contact after bail has been revoked and denied

A person is guilty of improper contact after bail has been revoked and denied if, while being detained as a result of the person's preconviction or post-conviction bail having been revoked and denied, the person intentionally or knowingly makes direct or indirect contact with a person when that contact was prohibited under a former condition of release. Violation of this section is a Class D crime.

Sec. 2. 17-A MRSA §1306 is enacted to read:

§ 1306. Satisfaction of outstanding fine amount by performing community service work

A natural person convicted of a Class D or Class E crime who has been sentenced to pay a fine, whether mandatory or nonmandatory, and who has not inexcusably defaulted on payment of any portion of the fine may file a motion in the underlying criminal proceeding seeking to be allowed to satisfy the outstanding fine amount by performing community service work. After the person gives notice of the motion to the attorney for the State, the court shall schedule a hearing on the motion if the person qualifies. At the hearing, if the person demonstrates by a preponderance of the evidence both a present and future incapacity to pay the outstanding fine amount and the capacity and willingness to perform community service work to satisfy the outstanding fine amount, the court may grant the motion and specify the number of hours of community service work to be performed by the person to satisfy the outstanding fine amount. The number of hours specified must reflect a credit against the unpaid fine of no less than \$25 for every 8 hours of community service work.

Sec. 3. 30-A MRSA §1803, as enacted by PL 2003, c. 228, §1, is amended to read:

§ 1803. Relationship to other laws

This chapter provides an alternative method for carrying out the purposes of this chapter and is supplemental to powers conferred by other laws, and is not in derogation of any existing powers. Any reference to "county jail" or "jail" in the Maine Revised Statutes includes the Lincoln and Sagadahoc Multicounty Jail.

Sec. 4. 34-A MRSA §11203, sub-§6, ¶B, as amended by PL 2009, c. 365, Pt. B, §10 and affected by §22, is further amended to read:

B. A violation under former Title 17, section 2922; former Title 17, section 2923; former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F, G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1, paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph B or D if the crime was not elevated a class under former Title 17-A, section 255, subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, F-2, G, I, J, K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A, section 284; Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3), unless the actor is a parent of the victim; Title 17-A, section 511, subsection 1, paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1, paragraph B; or Title 17-A, section 855;

Sec. 5. Retroactivity. That section of this Act that amends the Maine Revised Statutes, Title 34-A, section 11203, subsection 6, paragraph B applies retroactively to September 28, 2011.

SUMMARY

This bill creates a new Class D crime of improper contact after bail has been revoked and denied. A person commits this crime if the person, while being detained because the person's preconviction or post-conviction bail has been revoked and denied, intentionally or knowingly makes contact with a person when that contact was prohibited under a former condition of release.

The bill authorizes a court to allow a natural person who has an outstanding mandatory or nonmandatory fine imposed for a Class D or Class E crime to satisfy the fine by performing a specific number of hours of community service work if the person has not in fact inexcusably defaulted in payment of any portion and, having provided notice of the motion seeking satisfaction of the person's outstanding fine amount by performing community service to the attorney for the State, at a hearing the person demonstrates by a preponderance of the evidence both a present and future inability to pay the outstanding fine amount and the capacity and willingness to perform community service work to satisfy the fine owed. The court may not order a hearing unless the court determines the person has qualified to be considered. If the court grants the motion, the number of hours it may specify must reflect a credit against the unpaid fine of no less than \$25 for every 8 hours of community service work.

The bill also clarifies that all references to "county jail" or "jail" in the Maine Revised Statutes include the Lincoln and Sagadahoc Multicounty Jail.

The bill corrects an omission with respect to a sexual crime. Public Law 2011, chapter 464, sections 8 and 9 repealed the Maine Revised Statutes, Title 17-A, section 254, subsection 1, paragraph F and moved the substance of the crime to Title 17-A, section 255-A, subsection 1, paragraph F-2. The elements of the crime did not change; it was simply moved from the crime of sexual abuse of a minor to unlawful sexual contact because the core conduct that is criminalized is sexual contact, not the sexual acts prohibited by sexual abuse of a minor. The crime of sexual abuse of a minor is included in the definition of "sex offense" in Title 34-A, section 11203, subsection 6 of the Sex Offender Registration and Notification Act of 1999, and conviction requires registration for 10 years. As the result of an oversight, the definition of "sex offense" was not amended to reflect the change in designation of the crime in the Maine Criminal Code. The correction is retroactive to the effective date of Public Law 2011, chapter 464, September 28,

2011, to allow for conviction of the crime of unlawful sexual contact in violation of Title 17-A, section 255-A, subsection 1, paragraph F-2 to continue to require registration for 10 years.