

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Protect Victims of Domestic Violence**

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

### **PART A**

**Sec. A-1. 15 MRSA §1003, sub-§3-A**, as enacted by PL 2011, c. 341, §1, is amended to read:

**3-A. Crime involving domestic violence.** "Crime involving domestic violence" means:

A. As defined in Title 17-A, a crime of domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct; and

B. A violation of a protective order under Title 19-A, section 4011, the alleged victim of which is a family or household member as defined in Title 19-A, section 4002, subsection 4.; and

C. Any of the following crimes when alleged to have been committed against a family or household member as defined in Title 19-A, section 4002, subsection 4:

(1) Title 17-A, section 203, manslaughter;

(2) Title 17-A, section 208, aggravated assault;

(3) Title 17-A, section 208-B, elevated aggravated assault;

(4) Title 17-A, section 208-C, elevated aggravated assault on a pregnant person;

(5) Title 17-A, section 213, aggravated reckless conduct;

(6) Title 17-A, section 253, gross sexual assault;

(7) Title 17-A, section 301, kidnapping;

(8) Title 17-A, section 302, criminal restraint;

(9) Title 17-A, section 402, criminal trespass; and

(10) Title 17-A, section 402-A, aggravated criminal trespass.

**Sec. A-2. 15 MRSA §1023, sub-§4, ¶C**, as amended by PL 2011, c. 341, §2, is repealed.

**Sec. A-3. 15 MRSA §1023, sub-§4, ¶C-1** is enacted to read:

C-1. Set preconviction bail for a defendant alleged to have committed a crime involving domestic violence;

**Sec. A-4. 15 MRSA §1092, sub-§1, ¶B**, as amended by PL 2005, c. 449, §2, is further amended to read:

B. A Class C crime if the underlying crime was punishable by a maximum period of imprisonment of one year or more or was a crime involving domestic violence and the condition of release violated is one specified in section 1026, subsection 3, paragraph A, subparagraph (5), (8), (10-A) or (13).

**Sec. A-5. 15 MRSA §1092, sub-§4, ¶C**, as enacted by PL 2011, c. 341, §3, is amended to read:

C. The underlying crime for which preconviction bail was granted is a crime involving domestic violence, ~~sexual assault pursuant to Title 17-A, chapter 11 or sexual exploitation of minors pursuant to Title 17-A, chapter 12.~~

**Sec. A-6. 15 MRSA §1095, sub-§2**, as amended by PL 2011, c. 341, §4, is further amended to read:

**2. Arrest.** Prior to the filing of a motion to revoke a defendant's preconviction bail under subsection 1, a law enforcement officer when requested by the attorney for the State, may arrest with a warrant, or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. A defendant under arrest pursuant to this section must be brought before any judge or justice of the appropriate court. The judge or justice shall determine without hearing whether the existing preconviction bail order should be modified or whether the defendant should be committed without bail pending the bail revocation hearing. If either the underlying crime or the new criminal conduct alleged is a crime involving domestic violence, the judge or justice shall order that the defendant be committed without bail pending the bail revocation hearing, unless the judge or justice makes written findings that there are conditions of release that will reasonably ensure that the defendant will not commit new crimes while out on bail, that will reasonably ensure the defendant's appearance at the time and place required and that will ensure the integrity of the judicial process and the safety of others in the community pending the bail revocation hearing. A copy of the motion for revocation must be furnished to the defendant prior to the hearing on the alleged violation, unless the hearing must be conducted in the absence of the defendant.

**Sec. A-7. 15 MRSA §1097, sub-§2-A** is enacted to read:

**2-A. Crimes involving allegations of domestic violence.** If the underlying crime for which preconviction bail was granted involves an alleged crime involving domestic violence and the new conduct found by the court pursuant to section 1096 involves new allegations of a crime involving domestic violence or contact with a victim or witness in the underlying case, the judge or justice shall issue an order denying bail unless the judge or justice makes the findings regarding conditions of release pursuant to subsections 1 and 2 in writing, except that the judge or justice shall issue an order denying bail if there has been a previous revocation of preconviction bail pursuant to section 1096.

## PART B

**Sec. B-1. 17-A MRSA §208, sub-§1, ¶C,** as amended by PL 1981, c. 317, §6, is further amended to read:

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, or 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.

**Sec. B-2. 17-A MRSA §1201, sub-§1, ¶A-1,** as amended by PL 2011, c. 465, §7, is further amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime that the State pleads and proves was committed against a family or household member or a dating partner under chapter 9 or 13 or section 554, 555 or 758. As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4; "dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A;

(2-A) A Class D crime under Title 5, section 4659, subsection 1, Title 15, section 321, subsection 6 or Title 19-A, section 4011, subsection 1;

- (3) A Class D or Class E crime in chapter 11 or 12;
- (4) A Class D crime under section 210-A;
- (4-A) A Class E crime under section 552;
- (5) A Class D or Class E crime under section 556, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;
- (6) A Class D crime in chapter 45 relating to a schedule W drug;
- (7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B;
- (8) A Class D crime under Title 17, section 1031; or
- (9) A Class D crime under Title 17-A, section 1119, subsection 1-; or
- (10) A crime involving domestic violence. For the purposes of this subparagraph, "crime involving domestic violence" has the same meaning as in Title 15, section 1003, subsection 3-A.

## PART C

**Sec. C-1. 25 MRSA §2803-B, sub-§1, ¶D**, as amended by PL 2011, c. 265, §2, is further amended to read:

D. Domestic violence, which must include, at a minimum, the following:

- (1) A process to ensure that a victim receives notification of the defendant's release from jail;
- (2) A process for the collection of information regarding the defendant that includes the defendant's previous history, the parties' relationship, whether the commission of an alleged crime included the use of strangulation as defined in Title 17-A, section 208, subsection 1, paragraph C, the name of the victim and a process to relay this information to a bail commissioner before a bail determination is made;

(3) A process for the safe retrieval of personal property belonging to the victim or the defendant that includes identification of a possible neutral location for retrieval, the presence of at least one law enforcement officer during the retrieval and giving the victim the option of at least 24 hours notice to each party prior to the retrieval; and

(4) Standard procedures to ensure that protection from abuse orders issued under Title 19-A, section 4006 or 4007 are served on the defendant as quickly as possible;

## **SUMMARY**

This bill:

1. Adds additional crimes to the definition of "crime involving domestic violence" in the Maine Bail Code;

2. Provides that bail must be determined by a judge, not a bail commissioner, when a crime involving domestic violence is alleged to have occurred;

3. Makes the violation of a bail condition in cases in which an underlying crime was a crime involving domestic violence a Class C crime;

4. Requires judges to order that a defendant be committed without bail pending a bail revocation hearing, unless certain conditions are met, in certain circumstances;

5. Requires judges to deny bail in certain circumstances;

6. Allows a sentence of or that includes a term of probation to be imposed upon a defendant convicted of a crime involving domestic violence; and

7. Requires law enforcement agencies to include in their mandatory policies regarding domestic violence a process for collecting information about whether the commission of an alleged crime included the use of strangulation.