

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

Amend the bill in section 2 by striking out all of paragraph C (page 1, lines 15 to 27 in L.D.) and inserting the following:

‘C. The actor violates paragraph A and has ~~two~~ one or more prior convictions in this State or another jurisdiction. Notwithstanding section 2, subsection 3-B, as used in this paragraph, "another jurisdiction" also includes any Indian tribe.

Violation of this paragraph is a Class C crime. In determining the sentence for a violation of this paragraph the court shall impose a sentence of imprisonment by using a 2-step process. In the first step the court shall determine a base term of imprisonment of one year. In the 2nd step the court shall determine and impose a term of imprisonment for the defendant the length of which is appropriate for the defendant after consideration of the factors required by section 1252, subsection 5-D and aggravating and mitigating factors, including, but not limited to, the character of the defendant and the defendant's criminal history, the effect of the offense on the victim and the protection of the public interest.

For the purposes of this paragraph, "prior conviction" means a conviction for a violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19, section 769; Title 19-A, section 4011; Title 22, section 4036; any other temporary, emergency, interim or final protective order; an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation; any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe; or a court-approved consent agreement. Section 9-A governs the use of prior convictions when determining a sentence;.’

Amend the bill in section 3 by striking out all of paragraph E (page 1, lines 32 to 35 in L.D.) and inserting the following:

‘E. The actor violates paragraph C and at least one prior conviction was for a violation of paragraph D.

Violation of this paragraph is a Class B crime. In determining the sentence for a violation of this paragraph the court shall impose a sentence of imprisonment by using a 2-step process. In the first step the court shall determine a base term of imprisonment of 2 years. In the 2nd step the court shall determine and impose a term of imprisonment for the defendant the length of which is appropriate for the defendant after consideration of the factors required by section 1252, subsection 5-D and aggravating and mitigating factors, including, but not limited to, the character of the defendant and the defendant's criminal history, the effect of the offense on the victim and the protection of the public interest.’

SUMMARY

This amendment replaces the minimum sentence provision in the bill that applies to a person convicted of stalking for a 2nd time or more times. The amendment replaces the minimum sentence for a 2nd or subsequent conviction of stalking with a requirement that the court use a 2-step process, first determining a base term of imprisonment of one year and then considering the fact of the stalking and aggravating and mitigating factors, including the impact on the victim, when determining the length of the term of imprisonment. The amendment replaces the minimum sentence provision in the bill that applies to a person convicted of stalking for a 2nd time or more times, when the person stalked 2 or more persons of an identifiable group. The amendment requires the court to use a 2-step process, first determining a base term of imprisonment of 2 years and then considering the fact of the stalking and aggravating and mitigating factors, including the impact on the victim, when determining the length of the term of imprisonment.