

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 Increase the Penalty for Multiple Violations of Protection from Abuse Orders

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

Sec. 1. 17-A MRSA §1348, as amended by PL 2005, c. 527, §21, is further amended to read:

§ 1348. Eligibility for deferred disposition

A person who has pled guilty to a Class C, Class D or Class E crime, except for a crime involving domestic violence, and who consents to a deferred disposition in writing is eligible for a deferred disposition. For the purpose of this section, "crime involving domestic violence" means a crime of domestic violence assault as described in section 207-A, domestic violence criminal threatening as described in section 209-A, domestic violence terrorizing as described in section 210-B, domestic violence stalking as described in section 210-C or domestic violence reckless conduct as described in section 211-A or 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.

Sec. 2. 19-A MRSA §4011, sub-§1, as amended by PL 2001, c. 420, §1, is further amended to read:

1. Crime committed. Except as provided in subsections 2 ~~and~~ 4, 5 and 6, violation of the following is a Class D crime when the defendant has prior actual notice, which may be notice by means other than service in hand, of the order or agreement:

A. A temporary, emergency, interim or final protective order, an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation or a similar order issued by a court of the United States or of another state, territory, commonwealth or tribe; or

B. A court-approved consent agreement.

Sec. 3. 19-A MRSA §4011, sub-§§5 and 6 are enacted to read:

5. Subsequent violations; mandatory sentences and probation. The court shall impose a term of imprisonment and a term of probation for a person who violates an order or agreement as provided in subsection 1 as follows.

A. A person who has one prior conviction of a violation under subsection 1 commits a Class D crime, and the court shall impose a definite term of imprisonment of not less than 14 days and a definite term of probation of not less than one year unless the court makes findings on the record of the court's reasons for not ordering such definite terms.

B. A person who has 2 or more prior convictions of a violation under subsection 1 commits a Class C crime, and the court shall impose a definite term of imprisonment of not less than 60 days and a definite term of probation of not less than 2 years unless the court makes findings on the record of the court's reasons for not ordering such definite terms.

6. Reckless conduct or assault; subsequent violations; mandatory sentences and probation. The court shall impose a term of imprisonment and a term of probation for a person who commits a violation under subsection 4 as follows.

A. A person who has one prior conviction of a violation under subsection 4 commits a Class C crime, and the court shall impose a definite term of imprisonment of not less than 14 days and a definite term of probation of not less than one year unless the court makes findings on the record of the court's reasons for not ordering such definite terms.

B. A person who has 2 or more prior convictions of a violation under subsection 4 commits a Class C crime, and the court shall impose a definite term of imprisonment of not less than 60 days and a definite term of probation of not less than 2 years unless the court makes findings on the record of the court's reasons for not ordering such definite terms.

SUMMARY

This bill amends the laws regarding penalties for violating consent agreements and protective orders in cases of domestic violence.

This bill requires a court to sentence a person upon a 2nd conviction of violating a protective order or court-approved consent agreement, which is a Class D crime, to a definite term of imprisonment of not less than 14 days and a definite term of probation of not less than one year unless the court makes findings on the record of the court's reasons for not ordering such definite terms. The bill makes a 3rd or subsequent conviction of violating a protective order or court-approved consent agreement a Class C crime and requires a court to sentence the person to a definite term of imprisonment of not less than 60 days and a definite term of probation of not less than 2 years unless the court makes findings on the record of the court's reasons for not ordering such definite terms.

The bill also requires a court to sentence a person upon a 2nd conviction of violating a protective order through conduct that is reckless and that creates a substantial risk of death or serious bodily injury to the plaintiff named in the protective order or who assaults the plaintiff named in the protective order, which is a Class C crime, to a definite term of imprisonment of not less than 14 days and a definite term of probation of not less than one year unless the court makes findings on the record of the court's reasons for not ordering such definite terms. The bill requires a court to sentence a person upon a 3rd or subsequent conviction to a definite term of imprisonment of not less than 60 days and a definite term of probation of not less than 2 years unless the court makes findings on the record of the court's reasons for not ordering such definite terms.

The bill also makes a person who commits a crime involving domestic violence ineligible for deferred disposition.