

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 Impose a Mandatory Sentence for the Crime of Aggravated Unlawful Operation of a Methamphetamine Laboratory**

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

**Sec. 1. 17-A MRSA §1252, sub-§5-A**, as amended by PL 2015, c. 485, §5, is further amended to read:

**5-A.** Notwithstanding any other provision of this Code, for a person convicted of violating section 1105-A, 1105-B, 1105-C, 1105-D, 1105-E or 1118-A:

A. Except as otherwise provided in paragraphs B and C, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 4 years; when the sentencing class is Class B, the minimum term of imprisonment is 2 years; and, with the exception of a conviction under section 1105-A, 1105-B, 1105-C or 1105-D when the drug that is the basis for the charge is marijuana, when the sentencing class is Class C, the minimum term of imprisonment is one year;

B. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in paragraph A, if:

(1) The court finds by substantial evidence that:

(a) Imposition of a minimum unsuspended term of imprisonment under paragraph A will result in substantial injustice to the defendant. In making this determination, the court shall consider, among other considerations, whether the defendant did not know and reasonably should not have known that the victim was less than 18 years of age;

(b) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not have an adverse effect on public safety; and

(c) Failure to impose a minimum unsuspended term of imprisonment under paragraph A will not appreciably impair the effect of paragraph A in deterring others from violating section 1105-A, 1105-B, 1105-C, 1105-D, 1105-E or 1118-A; and

(2) The court finds that:

(c) The defendant's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under paragraph A would frustrate the general purposes of sentencing set forth in section 1151.

If the court imposes a sentence under this paragraph, the court shall state in writing its reasons for its findings and for imposing a sentence under this paragraph rather than under paragraph A; and

C. If the court imposes a sentence under paragraph B, the minimum sentence of imprisonment, which may not be suspended, is as follows: When the sentencing class is Class A, the minimum term of imprisonment is 9 months; when the sentencing is Class B, the minimum term of imprisonment is 6 months; and, with the exception of trafficking or furnishing marijuana under section 1105-A or 1105-C, when the sentencing class is Class C, the minimum term of imprisonment is 3 months.

## **SUMMARY**

This bill adds the crime of aggravated unlawful operation of a methamphetamine laboratory to the list of drug offenses that carry a mandatory 4-year minimum sentence.