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Legislative Document

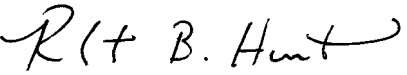
No. 1572

H.P. 1030

House of Representatives, April 10, 2025

An Act Regarding Prosecution Standards for Nonfatal Strangulation or Suffocation in Domestic Violence Cases

Reference to the Committee on Judiciary suggested and ordered printed.


ROBERT B. HUNT
Clerk

Presented by Representative STOVER of Boothbay.
Cosponsored by Senator NANGLE of Cumberland and
Representatives: GRAMLICH of Old Orchard Beach, MALON of Biddeford, MASTRACCIO
of Sanford, MEYER of Eliot, MOONEN of Portland, PLUECKER of Warren, SAYRE of
Kennebunk, Senator: ROTUNDO of Androscoggin.

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

2 **Sec. 1. 15 MRSA §1032** is enacted to read:

3 **§1032. Domestic assault**

4 In a domestic assault matter under Title 17-A, section 207-A, 208-C, 208-D, 208-E or
5 208-F, bail may not be posted by the victim or a family or household member of the victim
6 as defined in Title 19-A, section 4102, subsection 6 or a dating partner of the victim as
7 defined in Title 19-A, section 4102, subsection 4.

8 **Sec. 2. 16 MRSA §62** is enacted to read:

9 **§62. Domestic violence victim testimony in criminal matters**

10 Notwithstanding any provision of law to the contrary, a victim of domestic violence in
11 a criminal matter may not be compelled to testify, and the complete record of the victim's
12 oral or recorded statements in any initial or follow-up interviews with a law enforcement
13 officer, attorney for the State or employee or agent of a law enforcement agency or
14 prosecutorial office taken as part of the investigation or preparation for prosecution of the
15 matter is not hearsay and may be admitted in court without the presence of the victim.

16 **Sec. 3. 17-A MRSA §20** is enacted to read:

17 **§20. Matters related to nonfatal strangulation or suffocation**

18 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
19 following terms have the following meanings.

20 A. "Dispatcher" has the same meaning as in Title 5, section 18313, subsection 1.

21 B. "Prosecutor" means the attorney for the State prosecuting a criminal matter.

22 C. "Strangulation" or "suffocation" has the same meaning as in section 208, subsection
23 1, paragraph C.

24 **2. Court action in matters related to aggravated domestic violence nonfatal**
25 **strangulation or suffocation.** The court may not dismiss or allow unnecessary delay of
26 the disposition of a case alleging domestic violence aggravated assault involving nonfatal
27 strangulation or suffocation under section 208-D, subsection 1, paragraph D.

28 **3. Prosecution of matters related to aggravated domestic violence nonfatal**
29 **strangulation or suffocation.** In a criminal matter involving nonfatal strangulation or
30 suffocation of a family or household member as defined in Title 19-A, section 4102,
31 subsection 6 or a dating partner as defined in Title 19-A, section 4102, subsection 4, the
32 prosecutor:

33 A. May not dismiss the charge or cause unnecessary delay in the disposition of the
34 matter;

35 B. Shall review the case to determine whether the matter is an aggravated offense
36 under section 208-D;

37 C. May not defer the case or agree to a plea of a lesser assault charge; and

38 D. Shall use an expert, when necessary, to assist with testimony of the victim.

1 **4. Repeat offenders.** A defendant in a criminal matter involving nonfatal
2 strangulation or suffocation of a family or household member as defined in Title 19-A,
3 section 4102, subsection 6 or a dating partner as defined in Title 19-A, section 4102,
4 subsection 4 who has been convicted of an offense under section 207-A, 208-C, 208-D,
5 208-E or 208-F or similar domestic violence assault offense may not be offered or enter
6 into a plea agreement or any other similar procedure that restricts court process.

7 **5. Training on nonfatal strangulation or suffocation prevention.** A prosecutor
8 shall complete a minimum of 8 hours of certified training on nonfatal strangulation or
9 suffocation prevention annually. All judges, justices, law enforcement officers, defense
10 attorneys and dispatchers shall complete certified training on nonfatal strangulation or
11 suffocation prevention every 2 years.

12 **Sec. 4. 17-A MRSA §208, sub-§1, ¶C,** as amended by PL 2019, c. 91, §1, is further
13 amended to read:

14 C. Bodily injury to another under circumstances manifesting extreme indifference to
15 the value of human life. Such circumstances include, but are not limited to, the number,
16 location or nature of the injuries, the manner or method inflicted, the observable
17 physical condition of the victim or the use of strangulation or suffocation. For the
18 purpose of this paragraph, "strangulation" means impeding the breathing or circulation
19 of the blood of another person by intentionally, knowingly or recklessly applying
20 pressure on the person's throat or neck, and "suffocation" means impeding the breathing
21 or circulation of the blood of another person by intentionally, knowingly or recklessly
22 applying pressure on the person's nose or mouth. Violation of this paragraph is a Class
23 B crime.

24 **Sec. 5. 17-A MRSA §208-D, sub-§1, ¶C,** as amended by PL 2023, c. 465, §4, is
25 further amended to read:

26 C. Violates section 208, subsection 1, paragraph B and the victim is a family or
27 household member as defined in Title 19-A, section 4102, subsection 6 or a dating
28 partner as defined in Title 19-A, section 4102, subsection 4. Violation of this paragraph
29 is a Class B crime; ~~or~~

30 **Sec. 6. 17-A MRSA §208-D, sub-§1, ¶D,** as amended by PL 2023, c. 465, §4, is
31 further amended to read:

32 D. Violates section 208, subsection 1, paragraph C and the victim is a family or
33 household member as defined in Title 19-A, section 4102, subsection 6 or a dating
34 partner as defined in Title 19-A, section 4102, subsection 4. Violation of this paragraph
35 is a Class B crime; ~~or~~

36 **Sec. 7. 17-A MRSA §208-D, sub-§1, ¶E** is enacted to read:

37 E. Violates section 208, subsection 1, paragraph C and willingly inflicts nonfatal
38 strangulation or suffocation on the victim or physical injury resulting in a traumatic
39 condition and the victim is a family or household member as defined in Title 19-A,
40 section 4102, subsection 6 or a dating partner as defined in Title 19-A, section 4102,
41 subsection 4. For purposes of this paragraph, "traumatic condition" means a condition
42 of the body such as a wound or external or internal injury caused by physical force.
43 Violation of this paragraph is a Class A crime.

SUMMARY

This bill establishes prosecution standards for nonfatal strangulation or suffocation in domestic assault criminal matters. It:

1. Prohibits the victim, victim's family or victim's dating partner from being able to post bail for the defendant;

2. Allows statements made by the victim during the investigation or preparation for prosecution to be admitted in court without the presence of the victim being required;

3. Prohibits the court from dismissing or allowing unnecessary delay of the disposition of the matter;

4. Prohibits the prosecutor from dismissing, allowing unnecessary delay, deferring or agreeing to a plea of a lesser assault charge;

5. Prohibits a defendant previously convicted of a domestic violence assault charge from entering into a plea agreement;

6. Requires prosecutors, judges, justices, law enforcement officers, defense attorneys and dispatchers to receive training on nonfatal strangulation or suffocation prevention; and

7. Makes domestic violence aggravated assault by means of nonfatal strangulation or suffocation a Class A crime.