

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND AND FIFTEEN

—
H.P. 351 - L.D. 512

**An Act To Implement Certain Recommendations of the Criminal Law
Advisory Commission Relative to the Maine Criminal Code**

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

Sec. 1. 17-A MRSA §208, as amended by PL 2011, c. 640, Pt. B, §2, is further amended to read:

§208. Aggravated assault

1. A person is guilty of aggravated assault if ~~he~~ that person intentionally, knowingly, or recklessly causes:

A. ~~Serious bodily~~ Bodily injury to another that creates a substantial risk of death or extended convalescence necessary for recovery of physical health. Violation of this paragraph is a Class B crime; ~~or~~

A-1. Bodily injury to another that causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ. Violation of this paragraph is a Class A crime;

B. Bodily injury to another with use of a dangerous weapon. Violation of this paragraph is a Class B crime; or

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, 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. Violation of this paragraph is a Class B crime.

~~2. Aggravated assault is a Class B crime.~~

Sec. 2. 17-A MRSA §505, sub-§2, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

2. As used in this section, "public way" means a way, including a sidewalk, owned and maintained by the State, a county or a municipality over which the general public has a right to pass by foot or by vehicle or a way under the control of park commissioners or a body having like powers.

Sec. 3. 17-A MRSA §554, as amended by PL 2005, c. 373, §§1 and 2, is further amended to read:

§554. Endangering the welfare of a child

1. A person is guilty of endangering the welfare of a child if that person:

A. Knowingly permits a child ~~under 16 years of age~~ to enter or remain in a house of prostitution. Violation of this paragraph is a Class D crime;

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles, gunpowder, smokeless powder or ammunition for firearms. Violation of this paragraph is a Class D crime;

~~B-1. Being the parent, foster parent, guardian or other person having the care and custody of the child, cruelly treats that child by abuse, neglect or extreme punishment;~~

B-2. Being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child ~~under 16~~, recklessly fails to take reasonable measures to protect the child from the risk of further bodily injury after knowing:

(1) That the child had, in fact, sustained serious bodily injury or bodily injury under circumstances posing a substantial risk of serious bodily injury; and

(2) That such bodily injury was, in fact, caused by the unlawful use of physical force by another person;

Violation of this paragraph is a Class C crime;

B-3. Being the parent, foster parent, guardian or other person having the care and custody of ~~the~~ a child, knowingly deprives the child of necessary health care, with ~~the~~ a result that the child is placed in danger of serious harm. Violation of this paragraph is a Class D crime; or

C. Otherwise recklessly endangers the health, safety or welfare of ~~a~~ the child ~~under 16 years of age~~ by violating a duty of care or protection. Violation of this paragraph is a Class D crime.

2. It is an affirmative defense to prosecution under this section that:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of ~~a~~ the child under 16 years of age who furnished the child cigarettes, tobacco or a reasonable amount of intoxicating liquor in the actor's home and presence;

B. The defendant was a person acting pursuant to authority expressly or impliedly granted in Title 22; or

C. The defendant was the parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian who furnished a the child under 16 years of age an air rifle, gunpowder, smokeless powder or ammunition for a firearm for use in a supervised manner.

~~3.— Endangering the welfare of a child is a Class D crime, except that a violation of subsection 1, paragraph B 2 is a Class C crime.~~

Sec. 4. 17-A MRSA §1201, sub-§1, ¶A-3 is enacted to read:

A-3. The court sentences the person to a term of imprisonment followed by a period of supervised release as authorized by chapter 50;

Sec. 5. 17-A MRSA §1206, sub-§7-B, as enacted by PL 1989, c. 728, §1, is repealed.

Sec. 6. 17-A MRSA §1231, sub-§6, as amended by PL 2007, c. 344, §4, is further amended to read:

6. The court may revoke a period of supervised release pursuant to section 1233 for any ground specified in subsection 7. If the court revokes a period of supervised release, the court shall require the person to serve time in prison under the custody of the Department of Corrections. This time in prison may equal all or part of the period of supervised release, without credit for time served on post-release supervision. The remaining portion of the period of supervised release that is not required to be served in prison ~~remains in effect to be served, if any, may not run during the time in prison and~~ must resume again after the person's release and is subject to revocation at a later date.

Sec. 7. 17-A MRSA §1252, sub-§4-E, as enacted by PL 2005, c. 673, §4, is amended to read:

4-E. If the State pleads and proves that a crime under section 253 was committed against a person who had not yet attained 12 years of age, the court, notwithstanding subsection 2, shall impose a definite term of imprisonment for any term of years. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least 20 years. The court shall also impose as part of the sentence a period of supervised release to immediately follow that definite term of imprisonment as mandated by section 1231.