



THE MAINE SENATE
131st Legislature

Testimony of Senator Richard A. Bennett
In Support of LD 1119, “An Act to Clarify the Criminal Statutes with Regard to Assaults
on Emergency Medical Services Persons”
24 April 2023

Last year, I was one of four legislators on the Task Force to Study the Process for Bringing Criminal Cases in Situations of Violence Against Health Care Workers. Other participants included law enforcement, prosecutors, hospital representatives and the judicial branch.

The Task Force was created by Resolve in response to reports that health care workers are increasingly the victims of violent incidents in the workplace perpetrated by patients or family members. We met four times and received presentations from several groups.

Needless to say, the most difficult day was the day nurses presented to us their first-hand accounts experiencing violence at the workplace. It is never easy testimony to hear. I wish I could report that there is an easy solution, or even a single, difficult solution. There is not.

But, the task force had a series of modest recommendations that the Legislature could take to address aspects of the problem. This legislation is one of those unanimous recommendations.

Below is an excerpt from the report on this legislation.

Maine’s criminal code, Title 17-A §752-C, includes an enhanced penalty for assault of an “emergency medical care provider” when that person is “providing emergency medical care”.

The task force determined that the scope of Title 17-A, §752-C is too limited to be an effective deterrent to violence against health care workers. One clear limitation is that this statute, and its enhanced penalty, only applies when the victim is an “*emergency medical care provider*” who is injured **while** “*providing emergency medical care*.”

These two elements exclude many emergency department employees as well as all health care workers in settings other than an emergency department. For example, a person in an emergency department who assaults custodial staff, security staff, or administrative staff might not be convicted of the Class C crime under §752-C because the person injured is found not to be an “emergency medical care provider.”

Similarly, if a person in an emergency department assaults a nurse while they are awaiting placement and not receiving emergency care, they too might be convicted of the Class C crime under §752-C because although the injured person is an “emergency medical care provider” it might be argued that they were not “providing emergency medical care” at the time of the assault.

To close this gap in applicability so that the enhanced penalty available under §752-C applies to anyone working in an emergency department, **the task force recommends expanding the scope of §752-C to include anyone working in an emergency department.** The task force did discuss expanding the scope beyond emergency departments, but consensus on that proposal was not reached. Recommendation: Amend Title 17-A to include the enhanced penalty for physical assault to any person working in a hospital emergency department regardless of whether the person is providing emergency care or is an emergency medical care provider.

According to data provided by Maine’s Judicial Branch, during the 5-year period of 2017-2021, there were 88 charges statewide under the current statute with a total of 12 convictions. This is a small percentage of the 1,130 intentional injury lost time claims filed by health care workers during this same time period.

Obviously, 12 convictions over a 5-year period is less than 3 per year. Concerns about over-expanding our felony statutes are simply not well-founded given the track record of convictions under the current statute.

I ask that you support LD 1119.