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Public Law
123rd Legislature
First Regular Session

Chapter 344
H.P. 1219 - L.D. 1736

**An Act To Amend the Laws Relating to Probation
and Supervised Release for Sex Offenders and To
Make Necessary Changes to the Maine Criminal Code**

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

Sec. 1. 17-A MRSA §1201, sub-§1, ¶A-1, as amended by PL 2005, c. 265, §7, is further amended to read:

A-1. The conviction is for a Class D or Class E crime other than:

(1) A Class D or Class E crime relative to which, based upon both the written agreement of the parties and a court finding, the facts and circumstances of the underlying criminal episode giving rise to the conviction generated probable cause to believe the defendant had committed a Class A, Class B or Class C crime in the course of that criminal episode and, as agreed upon in writing by the parties and found by the court, the defendant has no prior conviction for murder or for a Class A, Class B or Class C crime and has not been placed on probation pursuant to this subparagraph on any prior occasion;

(2) A Class D crime that the State pleads and proves was committed against a family or household member under chapter 9 or 13 or section 506-B, 554, 555 or 758. As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4;

(3) A Class D or Class E crime in chapter 11 or 12;

(4) A Class D crime under section 210-A;

(5) A Class D or Class E crime under section 556, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;

(6) A Class D crime in chapter 45 relating to a schedule W drug; or

(7) A Class D or Class E crime under Title 29-A, section 2411, subsection 1-A, paragraph B.

Sec. 2. 17-A MRSA §1203, sub-§1-A, ¶D is enacted to read:

D. If execution of the sentence is stayed, the court may revoke probation for criminal conduct committed during the period of stay or for failure to report as ordered.

Sec. 3. 17-A MRSA §1206, sub-§10 is enacted to read:

10. If a probation revocation proceeding results in the court vacating a part of the suspension of execution as to imprisonment while the person is in execution of the initial unsuspended portion of the sentence, the portion of imprisonment to be served as a result of the vacating commences only after the initial unsuspended portion of imprisonment has been fully served. If separate probation revocation proceedings result in the vacating of 2 or more parts of the suspension of execution as to imprisonment on the same sentence, the portions to be served must be served successively.

Sec. 4. 17-A MRSA §1231, sub-§6, as amended by PL 2005, c. 673, §2, 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 after the person's release and is subject to revocation at a later date.

Sec. 5. 17-A MRSA §1231, sub-§7 is enacted to read:

7. The court may revoke a period of supervised release for:

A. A violation of supervised release;

B. Criminal conduct committed during the term of imprisonment; or

C. Refusal during the term of imprisonment to actively participate, when requested to do so by the Department of Corrections, in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers.

Sec. 6. 17-A MRSA §1349, sub-§1, ¶A, as enacted by PL 2003, c. 711, Pt. A, §19, is repealed.

Sec. 7. 17-A MRSA §1349-A, sub-§1, as enacted by PL 2003, c. 711, Pt. A, §19, is amended to read:

1. A person who has been convicted of a Class D or Class E crime or the Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558 may be placed on administrative release for a period not to exceed one year.

Sec. 8. 17-A MRSA §1349-B, sub-§2, as enacted by PL 2003, c. 711, Pt. A, §19, is amended to read:

2. The court may sentence a person to a fine, not to exceed the maximum fine authorized for the Class D or Class E crime or the Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558, suspend the fine in whole or in part and accompany the suspension with a period of administrative release not to exceed the one year authorized under section 1349-A, subsection 1.

Sec. 9. 17-A MRSA §1349-D, sub-§4, as amended by PL 2005, c. 265, §18, is further amended to read:

4. If during the period of administrative release the attorney for the State has probable cause to believe that the person placed on administrative release has violated a requirement of administrative release, the attorney for the State may apply for a warrant for the arrest of the person. Unless sooner released, the court shall provide the person with an initial appearance on the revocation of administrative release within ~~145~~ days after arrest. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is as provided in section 1205-C, subsection 4. Bail is as provided in section 1205-C, subsections 5 and 6.

Sec. 10. 32 MRSA §13723, sub-§7, ¶A, as amended by PL 1991, c. 274, §2, is further amended to read:

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's inspectors and investigators, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the United States relating to scheduled drugs or controlled substances or to enforce conditions of probation or other supervision imposed by a court relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board, ~~or the Attorney General or the district attorney~~ for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. ~~No~~An officer having knowledge by virtue of the officer's office of any such prescription, order or record may not divulge that knowledge, except before a licensing or registration board or officer or in connection with a prosecution or proceeding in court.

Sec. 11. 34-A MRSA §9888 is enacted to read:

§ 9888. Administrative preliminary hearing

Whenever it appears that a person accepted for supervision under this compact arrested for an alleged violation of a supervision condition is entitled under the compact to a determination of whether there is probable cause to believe the person has violated a condition of that person's supervision, the determination must be made at an administrative preliminary hearing meeting the requirements of the compact and held before an official designated by the Commissioner of Corrections within 5 days after the arrest, excluding Saturdays, Sundays and holidays.

Effective September 20, 2007