TITLE 17-A

MAINE CRIMINAL CODE

PART 1

GENERAL PRINCIPLES

CHAPTER 1

PRELIMINARY

§1. Title; effective date; severability

1. Title 17-A shall be known and may be cited as the Maine Criminal Code. When it is alleged that an element occurred "on or about" any date prior to the effective date of the code, the prosecution shall be governed by the prior law. When it is alleged that all of the elements occurred "on or about" the effective date of the code or any date thereafter, the prosecution shall be governed by the code.
[PL 1975, c. 740, §9-A (RPR).]

2. Except as provided in section 4-A, this code shall become effective May 1, 1976, and it shall apply only to crimes committed subsequent to its effective date. Prosecution for crimes repealed by this code, which are committed prior to the effective date shall be governed by the prior law which is continued in effect for that purpose as if this code were not in force; provided that in any such prosecution the court may, with the consent of the defendant, impose sentence under the provisions of the code. In such cases, the sentencing authority of the court is determined by the application to the prior law of section 4-A, subsection 3, which became effective for this purpose May 1, 1976. For purposes of this section, a crime was committed subsequent to the effective date if all of the elements of the crime occurred on or after that date; a crime was not committed subsequent to the effective date if any element thereof occurred prior to that date, or if the evidence may reasonably be interpreted to establish that any element may have occurred prior to that date.
[PL 1981, c. 324, §1 (AMD).]

3. If any provision or clause of this code or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 649, §1 (AMD). PL 1975, c. 699, §1 (AMD). PL 1975, c. 740, §§9-A,10 (AMD). PL 1977, c. 78, §118 (AMD). PL 1981, c. 324, §1 (AMD).

§2. Definitions

As used in this code, unless a different meaning is plainly required, the following words and variants thereof have the following meanings. [PL 1975, c. 499, §1 (NEW).]

1. "Act" or "action" means a voluntary bodily movement.
[PL 1975, c. 499, §1 (NEW).]

2. "Acted" includes, where appropriate, possessed or omitted to act.
[PL 1975, c. 499, §1 (NEW).]

3. "Actor" includes, where appropriate, a person who possesses something or who omits to act.
[PL 1975, c. 499, §1 (NEW).]

3-A.

[PL 1977, c. 510, §9 (RP).]

3-B. "Another jurisdiction" means the Federal Government, the United States military, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, federally recognized Indian tribes and each of the several states except Maine.
[PL 2019, c. 621, Pt. E, §1 (AMD).]

3-C. Adult probation supervisor. "Adult probation supervisor" means any person who:

A. Is an employee of the Department of Corrections; [PL 2009, c. 142, §1 (NEW).]

B. Supervises adult probation officers; and [PL 2009, c. 142, §1 (NEW).]

C. Is trained, qualified and authorized by the Commissioner of Corrections to use deadly force. [PL 2009, c. 142, §1 (NEW).]
[PL 2009, c. 142, §1 (NEW).]

4. "Benefit" means any gain or advantage to the actor, and includes any gain or advantage to a person other than the actor which is desired or consented to by the actor.
[PL 1975, c. 499, §1 (NEW).]

5. "Bodily injury" means physical pain, physical illness or any impairment of physical condition.
[PL 1975, c. 499, §1 (NEW).]

5-A. "Corrections officer" has the same meaning as in Title 25, section 2801-A, subsection 2.
[PL 1995, c. 625, Pt. A, §19 (AMD).]

5-B. Corrections supervisor. "Corrections supervisor" means any person who:

A. Is an employee of the Department of Corrections; [PL 1995, c. 215, §1 (NEW).]

B. Supervises corrections officers; and [PL 1995, c. 215, §1 (NEW).]

C. Is trained, qualified and authorized by the Commissioner of Corrections to use deadly force. [PL 1995, c. 215, §1 (NEW).]
[PL 1995, c. 215, §1 (NEW).]

5-C. Concurrent sentence. "Concurrent sentence" means a sentence involving imprisonment that runs at the same time as one or more other sentences involving imprisonment while an individual is simultaneously in execution of each of them. A sentence involving imprisonment does not need to be imposed at the same time or begin or end at the same time as another sentence to be a concurrent sentence.
[PL 2019, c. 113, Pt. B, §1 (NEW).]

5-D. Consecutive sentence. "Consecutive sentence" means a sentence involving imprisonment that immediately follows in time another sentence involving imprisonment. A sentence is not a consecutive sentence with respect to another sentence if an individual is in execution of both sentences at any time. A sentence involving imprisonment does not need to be imposed at the same time as another sentence to be a consecutive sentence.
[PL 2019, c. 113, Pt. B, §1 (NEW).]

6. "Criminal negligence" has the meaning set forth in section 35.
[PL 1981, c. 324, §2 (AMD).]

6-A. "Critical infrastructure" means critical public or private infrastructure resource systems involved in providing services necessary to ensure or protect the public health, safety and welfare,

including, but not limited to, a public water system or a public water source; an emergency, governmental, medical, fire or law enforcement response system; a public utility system; a financial system; an educational system; or a food or clothing distribution system.
[PL 2001, c. 634, §2 (NEW).]

7. "Culpable" has the meaning set forth in section 35.
[PL 1981, c. 324, §2 (AMD).]

7-A. Day. "Day," for purposes of imposing imprisonment or probation, administrative release or supervised release, means 24 hours.
[PL 2019, c. 113, Pt. B, §2 (NEW).]

8. "Deadly force" means physical force that a person uses with the intent of causing, or that a person knows to create a substantial risk of causing, death or serious bodily injury. Except as provided in section 101, subsection 5, intentionally, knowingly or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force.
[PL 2009, c. 336, §4 (AMD).]

9. Dangerous weapon.

A. "Use of a dangerous weapon" means the use of a firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which, in the manner it is used or threatened to be used is capable of producing death or serious bodily injury. [PL 1977, c. 510, §10 (RPR).]

B. "Armed with a dangerous weapon" means in actual possession, regardless of whether the possession is visible or concealed, of:

(1) A firearm;

(2) Any device designed as a weapon and capable of producing death or serious bodily injury; or

(3) Any other device, instrument, material or substance, whether animate or inanimate, which, in the manner it is intended to be used by the actor, is capable of producing or threatening death or serious bodily injury. For purposes of this definition, the intent may be conditional. [PL 1977, c. 510, §10 (RPR).]

C. When used in any other context, "dangerous weapon" means a firearm or any device designed as a weapon and capable of producing death or serious bodily injury. [PL 1977, c. 510, §10 (RPR).]

D. For purposes of this subsection, proof that a thing is presented in a covered or open manner as a dangerous weapon gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that it, in fact, is a dangerous weapon. [PL 2001, c. 383, §1 (AMD); PL 2001, c. 383, §156 (AFF).]
[PL 2001, c. 383, §1 (AMD); PL 2001, c. 383, §156 (AFF).]

10. "Dwelling place" means a structure that is adapted for overnight accommodation of persons, or sections of any structure similarly adapted. A dwelling place does not include garages or other structures, whether adjacent or attached to the dwelling place, that are used solely for the storage of property or structures formerly used as dwelling places that are uninhabitable. It is immaterial whether a person is actually present.
[PL 2011, c. 691, Pt. A, §11 (AMD).]

11. "Element of the crime" has the meaning set forth in section 32.
[PL 1981, c. 324, §2 (AMD).]

12. "Financial institution" means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.
[PL 1975, c. 499, §1 (NEW).]

12-A. "Firearm" means any weapon, whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm.
[PL 1983, c. 219 (AMD).]

13. "Government" means the United States, any state or any county, municipality or other political unit within territory belonging to the State, the United States, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government or formed pursuant to interstate compact or international treaty.
[PL 1975, c. 499, §1 (NEW).]

14. "He" means, where appropriate, "she," or an organization.
[PL 1975, c. 499, §1 (NEW).]

14-A. Individual. "Individual" means a human being.
[PL 2019, c. 113, Pt. B, §3 (NEW).]

15. "Intentionally" has the meaning set forth in section 35.
[PL 1981, c. 324, §2 (AMD).]

15-A. Jail. "Jail" means a specially constructed or modified facility designated by law or regularly used for detention for a period of up to 12 months.
[PL 2019, c. 113, Pt. B, §4 (NEW).]

16. "Knowingly" has the meaning set forth in section 35.
[PL 1981, c. 324, §2 (AMD).]

17. "Law enforcement officer" means any person who by virtue of public employment is vested by law with a duty to maintain public order, to prosecute offenders, to make arrests for crimes, whether that duty extends to all crimes or is limited to specific crimes, or to perform probation functions or who is an adult probation supervisor.
[PL 2013, c. 133, §5 (AMD).]

17-A. Month. "Month," for purposes of imposing imprisonment or probation, administrative release or supervised release, means 30 days.
[PL 2019, c. 113, Pt. B, §5 (NEW).]

18. "Nondeadly force" means any physical force which is not deadly force.
[PL 1975, c. 499, §1 (NEW).]

19. "Organization" means a corporation, partnership or unincorporated association.
[PL 1975, c. 499, §1 (NEW).]

20. "Person" means a human being or an organization.
[PL 1975, c. 499, §1 (NEW).]

21. "Public servant" means any official officer or employee of any branch of government and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function. A person is considered a public servant upon the person's election, appointment or other designation as such, although the person may not yet officially occupy that position.
[PL 2007, c. 173, §2 (AMD).]

21-A. "Public utility system" includes any pipeline, gas, electric, steam, water, oil, transportation, sanitation, communication or other system operated for public use regardless of ownership.
[PL 2001, c. 634, §2 (NEW).]

21-B. "Public water source" has the same meaning as in Title 22, section 2641.
[PL 2001, c. 634, §2 (NEW).]

21-C. "Public water system" has the same meaning as in Title 22, section 2601, subsection 8.
[PL 2001, c. 634, §2 (NEW).]

22. "Recklessly" has the meaning set forth in section 35.
[PL 1981, c. 324, §2 (AMD).]

23. "Serious bodily injury" means a bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health.
[PL 1975, c. 740, §11 (AMD).]

23-A. "Strict liability crime" has the meaning set forth in section 34.
[PL 1999, c. 23, §1 (NEW).]

23-B. Split sentence. "Split sentence" means a sentence involving imprisonment, an initial portion of which is served and the remainder of which is suspended, accompanied by probation or administrative release.
[PL 2019, c. 113, Pt. B, §6 (NEW).]

24. "Structure" means a building or other place designed to provide protection for persons or property against weather or intrusion, but does not include vehicles and other conveyances whose primary purpose is transportation of persons or property unless such vehicle or conveyance, or a section thereof, is also a dwelling place.
[PL 1977, c. 510, §12 (NEW).]

25. "Terroristic intent" means the intent to do any of the following for the purpose of intimidating or coercing a civilian population or to affect the conduct of government:

A. Cause serious bodily injury or death to multiple persons; [PL 2001, c. 634, §2 (NEW).]

B. Cause substantial damage to multiple structures; or [PL 2001, c. 634, §2 (NEW).]

C. Cause substantial damage to critical infrastructure. [PL 2001, c. 634, §2 (NEW).]
[PL 2001, c. 634, §2 (NEW).]

26. Week. "Week," for purposes of imposing imprisonment or probation, administrative release or supervised release, means 7 days.
[PL 2019, c. 113, Pt. B, §7 (NEW).]

27. Year. "Year," for purposes of imposing imprisonment or probation, administrative release or supervised release, means 365 days.
[PL 2019, c. 113, Pt. B, §7 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §11 (AMD). PL 1977, c. 510, §§9-12 (AMD). PL 1981, c. 324, §2 (AMD). PL 1983, c. 219 (AMD). PL 1989, c. 18, §1 (AMD). PL 1989, c. 113, §2 (AMD). PL 1995, c. 215, §1 (AMD). PL 1995, c. 625, §A19 (AMD). PL 1999, c. 23, §1 (AMD). PL 2001, c. 383, §1 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 634, §2 (AMD). PL 2007, c. 173, §§1, 2 (AMD). PL 2007, c. 476, §1 (AMD). PL 2009, c. 142, §§1, 2 (AMD). PL 2009, c. 336, §4 (AMD). PL 2011, c. 691, Pt. A, §11 (AMD). PL 2013, c. 133, §5 (AMD). PL 2019, c. 113, Pt. B, §§1-7 (AMD). PL 2019, c. 621, Pt. E, §1 (AMD).

§3. All crimes defined by statute; civil actions

1. No conduct constitutes a crime unless it is prohibited

A. By this code; or [PL 1975, c. 499, §1 (NEW).]

B. By any statute or private act outside this code, including any rule, regulation or ordinance authorized by and lawfully adopted under a statute. [PL 1977, c. 510, §13 (AMD).]

[PL 1977, c. 510, §13 (AMD).]

2. This code does not bar, suspend, or otherwise affect any right or liability for damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in such civil action constitutes an offense defined in this code.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §12 (AMD). PL 1977, c. 510, §13 (AMD).

§4. Classification of crimes in this Code

1. Except for murder, all crimes defined by this Code are classified for purposes of sentencing as Class A, Class B, Class C, Class D and Class E crimes.

[PL 1981, c. 324, §3 (RPR).]

2.

[PL 1985, c. 282, §1 (RP).]

3.

[PL 1981, c. 324, §3 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §13 (RPR). PL 1977, c. 510, §14 (AMD). PL 1981, c. 324, §3 (RPR). PL 1985, c. 282, §1 (AMD).

§4-A. Crimes and civil violations outside the code

1. Except as provided in section 1, subsection 2, this section becomes effective October 24, 1977.

[PL 1981, c. 324, §4 (RPR).]

2.

[PL 1981, c. 324, §5 (RP).]

2-A. A statute outside this code may be expressly designated as a Class A, Class B, Class C, Class D or Class E crime, in which case sentencing for violation of such a statute is governed by the provisions of this code.

[PL 1981, c. 324, §6 (NEW).]

3. In statutes defining crimes which are outside this code and which are not expressly designated as Class A, Class B, Class C, Class D or Class E crimes, the class depends upon the imprisonment penalty that is provided as follows. If the maximum period authorized by the statute defining the crime:

A. Exceeds 10 years, the crime is a Class A crime; [PL 1975, c. 740, §14 (NEW).]

B. Exceeds 5 years, but does not exceed 10 years, the crime is a Class B crime; [PL 1975, c. 740, §14 (NEW).]

C. Exceeds 3 years, but does not exceed 5 years, the crime is a Class C crime; [PL 1975, c. 740, §14 (NEW).]

D. Exceeds one year, but does not exceed 3 years, the crime is a Class D crime; and [PL 1975, c. 740, §14 (NEW).]

E. Does not exceed one year, the crime is a Class E crime. [PL 1975, c. 740, §14 (NEW).]
[PL 1975, c. 740, §14 (NEW).]

4.

[PL 1985, c. 282, §2 (RP).]

5.

[MRSA T. 17-A §4-A, sub-§5 (RP).]

SECTION HISTORY

PL 1975, c. 740, §14 (NEW). PL 1977, c. 510, §§15,16 (AMD). PL 1977, c. 564, §84 (AMD). PL 1977, c. 661, §6 (AMD). PL 1981, c. 324, §§4-7 (AMD). PL 1981, c. 698, §91 (AMD). PL 1985, c. 282, §2 (AMD). PL 1991, c. 622, §N2 (AMD).

§4-B. Civil violations

1. All civil violations are expressly declared not to be criminal offenses. They are enforceable by the Attorney General, the Attorney General's representative or any other appropriate public official in a civil action to recover what may be designated a fine, penalty or other sanction, or to secure the forfeiture that may be decreed by the law.
[PL 2007, c. 173, §3 (AMD).]

2. A law or ordinance may be expressly designated as a civil violation.
[PL 1985, c. 282, §3 (NEW).]

3. A law or ordinance which prohibits defined conduct, but does not provide an imprisonment penalty, is a civil violation, enforceable in accordance with subsection 1. A law or ordinance which is stated to be a criminal violation or which otherwise uses language indicating that it is a crime, but does not provide an imprisonment penalty is a civil violation, enforceable in accordance with subsection 1, unless the law or ordinance is an exception to the operation of this subsection.
[PL 1985, c. 282, §3 (NEW).]

4. Evidence obtained pursuant to an unlawful search and seizure shall not be admissible in a civil violation proceeding arising under Title 22, section 2383.
[PL 1985, c. 282, §3 (NEW).]

SECTION HISTORY

PL 1985, c. 282, §3 (NEW). PL 2007, c. 173, §3 (AMD).

§5. Pleading and proof

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§15,16 (AMD). PL 1981, c. 324, §8 (RP).

§6. Application to crimes outside the code

1. The provisions of Parts 1 , 6 and 7 and chapter 7 are applicable to crimes defined outside this code, unless the context of the statute defining the crime clearly requires otherwise.
[PL 2019, c. 113, Pt. B, §8 (AMD).]

2.

[PL 1977, c. 510, §17 (RP).]

3.

[PL 1977, c. 510, §17 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§16-A (RPR). PL 1977, c. 510, §17 (AMD). PL 1981, c. 324, §9 (AMD). PL 1989, c. 502, §D9 (AMD). PL 2019, c. 113, Pt. B, §8 (AMD).

§7. Territorial applicability

1. Except as otherwise provided in this section, a person may be convicted under the laws of this State for any crime committed by the person's own conduct or by the conduct of another for which the person is legally accountable only if:

A. Either the conduct that is an element of the crime or the result that is such an element occurs within this State or has a territorial relationship to this State; [PL 2007, c. 173, §4 (AMD).]

B. Conduct occurring outside this State constitutes an attempt to commit a crime under the laws of this State and the intent is that the crime take place within this State; [PL 1975, c. 499, §1 (NEW).]

C. Conduct occurring outside this State would constitute a criminal conspiracy under the laws of this State, an overt act in furtherance of the conspiracy occurs within this State or has a territorial relationship to this State, and the object of the conspiracy is that a crime take place within this State; [PL 1979, c. 512, §16 (AMD).]

D. Conduct occurring within this State or having a territorial relationship to this State would constitute complicity in the commission of, or an attempt, solicitation or conspiracy to commit an offense in another jurisdiction that is also a crime under the law of this State; [PL 2007, c. 173, §4 (AMD).]

E. The crime consists of the omission to perform a duty imposed on a person by the law of this State, regardless of where that person is when the omission occurs; [PL 2007, c. 173, §4 (AMD).]

F. The crime is based on a statute of this State that expressly prohibits conduct outside the State, when the person knows or should know that the person's conduct affects an interest of the State protected by that statute; or [PL 2007, c. 173, §4 (AMD).]

G. Jurisdiction is otherwise provided by law. [PL 1975, c. 499, §1 (NEW).]

[PL 2007, c. 173, §4 (AMD).]

2. Subsection 1, paragraph A does not apply if:

A. Causing a particular result or danger of causing that result is an element and the result occurs or is designed or likely to occur only in another jurisdiction where the conduct charged would not constitute an offense; or [PL 1975, c. 499, §1 (NEW).]

B. Causing a particular result is an element of the crime and the result is caused by conduct occurring outside the State which would not constitute an offense if the result had occurred there. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

3. When the crime is homicide, a person may be convicted under the laws of this State if either the death of the victim or the bodily impact causing death occurred within the State or had a territorial relationship to the State. Proof that the body of a homicide victim is found within this State gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such death or impact occurred within the State. When the crime is theft, a person may be convicted under the laws of this State if that person obtained property of another, as defined in chapter 15, section 352, outside of this State and brought the property into the State.

[PL 2001, c. 383, §2 (AMD); PL 2001, c. 383, §156 (AFF).]

4. Conduct or a result has a territorial relationship to this State if it is not possible to determine beyond a reasonable doubt that it occurred inside or outside of this State, because a boundary cannot be precisely located or the location of any person cannot be precisely established in relation to a boundary, and if the court determines that this State has a substantial interest in prohibiting the conduct or result. In determining whether this State has a substantial interest, the court shall consider the following factors:

A. The relationship to this State of the actor or actors and of persons affected by the conduct or result, whether as citizens, residents or visitors; [PL 1979, c. 512, §19 (NEW).]

B. The location of the actor or actors and persons affected by the conduct or result prior to and after the conduct or result; [PL 1979, c. 512, §19 (NEW).]

C. The place in which other crimes, if any, in the same criminal episode were committed; and [PL 1981, c. 470, Pt. A, §36 (AMD).]

D. The place in which the intent to commit the crime was formed. [PL 1979, c. 512, §19 (NEW).]
[PL 1981, c. 470, Pt. A, §36 (AMD).]

5. The existence of territorial jurisdiction must be proved beyond a reasonable doubt.
[PL 1981, c. 324, §10 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §§15-19 (AMD). PL 1981, c. 324, §10 (AMD). PL 1981, c. 470, §A36 (AMD). PL 2001, c. 383, §2 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 173, §4 (AMD).

§8. Statute of limitations

1. It is a defense that prosecution was commenced after the expiration of the applicable period of limitations provided in this section, except that the following prosecutions may be commenced at any time:

A. A prosecution for murder or criminal homicide in the first or 2nd degree; or [PL 2019, c. 483, §1 (NEW).]

B. If the victim had not attained the age of 16 years at the time of the crime, a prosecution for incest; unlawful sexual contact; sexual abuse of a minor; or rape or gross sexual assault, formerly denominated as gross sexual misconduct. [PL 2019, c. 483, §1 (NEW).]
[PL 2019, c. 483, §1 (RPR).]

2. Except as provided in subsection 1 or 2-A, a prosecution for a Class A, Class B or Class C crime must be commenced within 6 years after it is committed and a prosecution for a Class D or Class E crime must be commenced within 3 years after it is committed.

A. [PL 2019, c. 483, §2 (RP).]

B. [PL 2019, c. 483, §2 (RP).]
[PL 2019, c. 483, §2 (RPR).]

2-A. A prosecution for a Class A, Class B or Class C crime involving unlawful sexual contact or gross sexual assault must be commenced within 20 years after it is committed.

This subsection does not apply to a Class D crime enhanced to a Class C crime pursuant to section 1604, subsection 5, paragraph B.
[PL 2019, c. 113, Pt. C, §57 (AMD); PL 2019, c. 483, §3 (AMD).]

3. The periods of limitations shall not run:

A. During any time when the accused is absent from the State, but in no event shall this provision extend the period of limitation otherwise applicable by more than 5 years; [PL 1987, c. 222, §3 (AMD).]

B. During any time when a prosecution against the accused for the same crime based on the same conduct is pending in this State; or [PL 1987, c. 222, §3 (AMD).]

C. During any time when a prosecution against the accused for the corresponding juvenile crime based on the same conduct is pending in the Juvenile Court. For purposes of this section, pending includes any appeal period and, if an appeal is taken, any period pending its final disposition. [PL 1987, c. 222, §3 (NEW).]

[PL 1987, c. 222, §3 (AMD).]

4. If a timely complaint, information or indictment is dismissed for any error, defect, insufficiency or irregularity, a new prosecution for the same crime based on the same conduct may be commenced within 6 months after the dismissal, or during the next session of the grand jury, whichever occurs later, even though the periods of limitations have expired at the time of such dismissal or will expire within such period of time.

[PL 1981, c. 317, §4 (AMD).]

5. If the period of limitation has expired, a prosecution may nevertheless be commenced for:

A. Any crime based upon breach of fiduciary obligation, within one year after discovery of the crime by an aggrieved party or by a person who has a legal duty to represent an aggrieved party, and who is not a party to the crime, whichever occurs first; [PL 2007, c. 173, §5 (AMD).]

B. Any crime based upon official misconduct by a public servant, at any time when such person is in public office or employment or within 2 years thereafter. [PL 1975, c. 499, §1 (NEW).]

C. This subsection shall in no event extend the limitation period otherwise applicable by more than 5 years. [PL 1975, c. 499, §1 (NEW).]

[PL 2007, c. 173, §5 (AMD).]

6. For purposes of this section:

A. A crime is committed when every element thereof has occurred, or if the crime consists of a continuing course of conduct, at the time when the course of conduct or the defendant's complicity therein is terminated; and [PL 1975, c. 499, §1 (NEW).]

B. A prosecution is commenced whenever one of the following occurs:

(1) A criminal complaint is filed;

(2) An indictment is returned; or

(3) Following waiver of an indictment, an information is filed. [PL 1987, c. 222, §4 (RPR).]

[PL 1987, c. 222, §4 (AMD).]

7. The defense established by this section shall not bar a conviction of a crime included in the crime charged, notwithstanding that the period of limitation has expired for the included crime, if as to the crime charged the period of limitation has not expired or there is no such period, and there is evidence which would sustain a conviction for the crime charged.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §18 (AMD). PL 1981, c. 317, §4 (AMD). PL 1981, c. 470, §§A37-A38 (AMD). PL 1987, c. 222, §§3, 4 (AMD). PL 1991, c. 585, §§1, 2 (AMD). PL 1999, c. 438, §§1, 2 (AMD). PL 2007, c. 173, §5 (AMD). PL 2013, c. 392, §§1, 2 (AMD). PL 2019, c. 113, Pt. C, §57 (AMD). PL 2019, c. 483, §§1-3 (AMD).

§9. Indictment and jurisdiction

Notwithstanding any other provision of law: [PL 1975, c. 499, §1 (NEW).]

1. All proceedings for Class A, B and C crimes must be prosecuted by indictment, unless indictment is waived, in which case prosecution must be as the Supreme Judicial Court provides by rule;
[PL 1997, c. 4, §2 (AMD).]

2. All proceedings for murder shall be prosecuted by indictment; and
[PL 1977, c. 510, §19 (AMD).]

3. The District Courts have jurisdiction to try civil violations and Class D and E crimes and to impose sentence in Class A, B and C crimes in which the District Court has accepted a plea of guilty.
[PL 2005, c. 326, §2 (AMD); PL 2005, c. 326, §5 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §17 (AMD). PL 1977, c. 510, §19 (AMD). PL 1997, c. 4, §2 (AMD). PL 2005, c. 326, §2 (AMD). PL 2005, c. 326, §5 (AFF).

§9-A. Allegation of prior conviction when sentence enhanced

1. Except as otherwise provided by law, a prior conviction must be specially alleged if the sentencing provision of a crime requires that a present sentence be enhanced because the person has been previously convicted of a specified crime. For the purpose of this section, a sentence is enhanced only if the maximum sentence that may be imposed is increased or a mandatory minimum nonsuspendable sentence must be imposed. The Supreme Judicial Court shall provide by rule the manner of alleging the prior conviction in a charging instrument and conditions for using that prior conviction at trial.
[PL 1999, c. 196, §2 (NEW).]

2. Proof that the name and date of birth of the person charged with the current principal offense are the same as those of the person who has been convicted of the prior offense gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person charged with the current principal offense is the same person as that person convicted of the prior offense.
[PL 2001, c. 383, §3 (AMD); PL 2001, c. 383, §156 (AFF).]

3. Prior convictions may be considered for purposes of enhancing a present sentence if the date of each prior conviction precedes the commission of the offense being enhanced by no more than 10 years, except as otherwise provided by law. More than one prior conviction may have occurred on the same day. The date of conviction is deemed to be the date that the sentence is imposed, even though an appeal was taken.
[PL 2001, c. 383, §4 (NEW); PL 2001, c. 383, §156 (AFF).]

4. Proof of the date stated in a complaint, information, indictment or other formal charging instrument gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such a date is the date the offense was committed, notwithstanding the use of the words "on or about" or the equivalent. The convictions of 2 or more prior offenses that were committed within a 3-day period are considered a single conviction for purposes of this section.
[PL 2001, c. 383, §4 (NEW); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1999, c. 196, §2 (NEW). PL 2001, c. 383, §§3,4 (AMD). PL 2001, c. 383, §156 (AFF).

§10. Definitions of culpable states of mind

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §18 (AMD). PL 1977, c. 510, §§20-23 (AMD). PL 1981, c. 324, §11 (RP).

§10-A. Jurisdiction over juveniles

1. A criminal proceeding may not be commenced against any person who had not attained 18 years of age at the time of the alleged crime, except as the result of a finding of probable cause authorized by Title 15, section 3101, subsection 4, or in regard to the offenses over which juvenile courts have no jurisdiction, as provided in Title 15, section 3101, subsection 2.
[PL 2007, c. 173, §6 (AMD).]

2. When it appears that the defendant's age, at the time the crime charged was committed, may have been such that the court lacks jurisdiction by reason stated in subsection 1, the court shall hold a hearing on the matter and the burden shall be on the State to establish the court's jurisdiction, as defined by subsection 1, by a preponderance of the evidence.
[PL 1981, c. 324, §12 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §12 (NEW). PL 2007, c. 173, §6 (AMD).

§11. Requirement of culpable mental states; liability without culpability

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §19 (AMD). PL 1981, c. 317, §5 (AMD). PL 1981, c. 324, §13 (RP). PL 1981, c. 470, §§B5,7-A (RP).

§12. De minimis infractions

1. The court may dismiss a prosecution if, upon notice to or motion of the prosecutor and opportunity to be heard, having regard to the nature of the conduct alleged and the nature of the attendant circumstances, it finds the defendant's conduct:

A. Was within a customary license or tolerance, which was not expressly refused by the person whose interest was infringed and which is not inconsistent with the purpose of the law defining the crime; or [PL 1975, c. 499, §1 (NEW).]

B. Did not actually cause or threaten the harm sought to be prevented by the law defining the crime or did so only to an extent too trivial to warrant the condemnation of conviction; or [PL 1975, c. 499, §1 (NEW).]

C. Presents such other extenuations that it cannot reasonably be regarded as envisaged by the Legislature in defining the crime. [PL 1975, c. 499, §1 (NEW).]
[PL 1975, c. 499, §1 (NEW).]

2. The court shall not dismiss a prosecution under this section without filing a written statement of its reasons.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§13. Other offenses

1. The existence of a crime other than the one charged, but based on the same conduct or arising from the same criminal episode, for which a person may be prosecuted, whether that crime is a lesser

or greater crime as to elements or sentencing classification, shall not preclude prosecution for the offense charged unless a contrary legislative intent plainly appears.
[PL 1975, c. 740, §20 (NEW).]

2.

[PL 1979, c. 512, §20 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §20 (RPR). PL 1979, c. 512, §20 (AMD).

§13-A. Included offenses

1. The court shall not instruct the jury to consider, nor shall the court as factfinder consider, a lesser included offense, as defined in subsection 2, unless on the basis of the evidence there is a rational basis for finding the defendant guilty of that lesser included offense. If a rational basis exists, the lesser included offense shall be considered by the factfinder if requested by either the State or defendant; otherwise, its consideration shall be a matter within the discretion of the court.
[PL 1979, c. 512, §21 (NEW).]

2. For purposes of this section, a lesser included offense is an offense carrying a lesser penalty which:

A. As legally defined, must necessarily be committed when the offense or alternative thereof actually charged, as legally defined, is committed. If the lesser offense is defined in a manner that it may be committed in alternative ways, each alternative which meets the above definition shall be deemed to be a lesser included offense. Facts which are a basis for sentencing classification of either the crime charged or the lesser crime shall be considered alternatives of those crimes; [PL 1979, c. 512, §21 (NEW).]

B. Meets the requirements of paragraph A, except that a culpable state of mind is required which is different than that charged but which results in lesser criminal liability; or [PL 1979, c. 512, §21 (NEW).]

C. Is by statute expressly declared to be charged when the greater offense is charged. [PL 1979, c. 512, §21 (NEW).]

[PL 1979, c. 512, §21 (NEW).]

3. The court in its discretion may instruct the jury to consider, or may as factfinder consider, any other offense or another alternative of the offense charged, although that other offense or alternative is not a lesser included offense, if:

A. On the basis of the evidence, there is a rational basis for finding the defendant guilty of the other offense; [PL 1979, c. 512, §21 (NEW).]

B. The other offense does not carry a greater penalty than the offense charged; [PL 1979, c. 512, §21 (NEW).]

C. Both the State and the defendant consent to the consideration of the other offenses by the factfinder; and [PL 1979, c. 512, §21 (NEW).]

D. The defendant waives any applicable right to an indictment for the other offense. [PL 1979, c. 512, §21 (NEW).]

When the other offense is defined in such a manner that it may be committed in alternative ways, the court may instruct the jury to consider, or may as factfinder consider, any alternative which meets the requirements of this subsection.
[PL 1979, c. 512, §21 (NEW).]

SECTION HISTORY

PL 1979, c. 512, §21 (NEW).

§14. Separate trials

A defendant shall not be subject to separate trials for multiple offenses based on the same conduct or arising from the same criminal episode, if such offenses were known to the appropriate prosecuting officer at the time of the commencement of the first trial and were within the jurisdiction of the same court and within the same venue, unless the court, on application of the prosecuting attorney or of the defendant or on its own motion, orders any such charge to be tried separately if it is satisfied that justice so requires. [PL 1975, c. 740, §21 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §21 (AMD).

§15. Warrantless arrests by a law enforcement officer

1. Except as otherwise specifically provided, a law enforcement officer may arrest without a warrant:

A. Any person who the officer has probable cause to believe has committed or is committing:

(1) Murder;

(2) Any Class A, Class B or Class C crime;

(3) Assault while hunting;

(4) Any offense defined in chapter 45;

(5) Assault, criminal threatening, terrorizing or stalking, if the officer reasonably believes that the person may cause injury to others unless immediately arrested;

(5-A) Assault, criminal threatening, terrorizing, stalking, criminal mischief, obstructing the report of a crime or injury or reckless conduct if the officer reasonably believes that the person and the victim are family or household members, as defined in Title 19-A, section 4002, subsection 4;

(5-B) Domestic violence assault, domestic violence criminal threatening, domestic violence terrorizing, domestic violence stalking or domestic violence reckless conduct;

(6) Theft as defined in section 357, when the value of the services is $1,000 or less if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(7) Forgery, if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(8) Negotiating a worthless instrument if the officer reasonably believes that the person will not be apprehended unless immediately arrested;

(9) A violation of a condition of probation when requested by a probation officer or juvenile community corrections officer;

(10) Violation of a condition of release in violation of Title 15, section 1026, subsection 3; Title 15, section 1027, subsection 3; Title 15, section 1051, subsection 2; and Title 15, section 1092;

(11) Theft involving a detention under Title 17, section 3521;

(12) Harassment, as set forth in section 506-A;

(13) Violation of a protection order, as specified in Title 5, section 4659, subsection 2; Title 15, section 321, subsection 6; former Title 19, section 769, subsection 2; former Title 19,

section 770, subsection 5; Title 19-A, section 4011, subsection 3; and Title 19-A, section 4012, subsection 5;

(14) A violation of a sex offender registration provision under Title 34-A, chapter 15;

(15) A violation of a requirement of administrative release when requested by the attorney for the State;

(16) A violation of a condition of supervised release for sex offenders when requested by a probation officer;

(17) A violation of a court-imposed deferment requirement of a deferred disposition when requested by the attorney for the State;

(18) A violation of a condition of release as provided in Title 15, section 3203-A, subsection 9;

(19) A violation of a condition of supervised community confinement granted pursuant to Title 34-A, section 3036-A when requested by a probation officer;

(20) A violation of a condition of placement on community reintegration status granted pursuant to Title 34-A, section 3810 and former section 4112 when requested by a juvenile community corrections officer;

(21) A violation of a condition of furlough or other rehabilitative program authorized under Title 34-A, section 3035 when requested by a probation officer or juvenile community corrections officer;

(22) A violation of preconviction or post-conviction bail pursuant to Title 15, section 1095, subsection 2 or section 1098, subsection 2 upon request of the attorney for the State;

(23) Failure to appear in violation of Title 15, section 1091, subsection 1, paragraph A;

(24) A Class D or Class E crime committed while released on preconviction or post-conviction bail; or

(25) A violation of a condition of release from a community confinement monitoring program pursuant to Title 30-A, section 1659-A; and [PL 2017, c. 148, §3 (AMD).]

B. Any person who has committed or is committing in the officer's presence any Class D or Class E crime. [PL 1995, c. 680, §3 (RPR).]

[PL 2017, c. 148, §3 (AMD).]

2. For the purposes of subsection 1, paragraph B, criminal conduct has been committed or is being committed in the presence of a law enforcement officer when one or more of the officer's senses afford that officer personal knowledge of facts that are sufficient to warrant a prudent and cautious law enforcement officer's belief that a Class D or Class E crime is being or has just been committed and that the person arrested has committed or is committing that Class D or Class E crime. An arrest made pursuant to subsection 1, paragraph B must be made at the time of the commission of the criminal conduct, or some part thereof, or within a reasonable time thereafter or upon fresh pursuit.

[PL 1995, c. 680, §3 (RPR).]

SECTION HISTORY

PL 1975, c. 740, §22 (NEW). PL 1977, c. 326 (AMD). PL 1977, c. 510, §24 (AMD). PL 1977, c. 671, §19 (AMD). PL 1977, c. 696, §169 (AMD). PL 1979, c. 578, §§1,7 (AMD). PL 1979, c. 677, §§2,18 (AMD). PL 1983, c. 450, §1 (AMD). PL 1983, c. 735, §1 (AMD). PL 1983, c. 795, §5 (AMD). PL 1983, c. 862, §47 (AMD). PL 1985, c. 737, §A40 (AMD). PL 1987, c. 758, §22 (AMD). PL 1987, c. 870, §11 (AMD). PL 1989, c. 122, §2 (AMD). RR 1991, c. 2, §50 (COR). PL 1991, c. 566, §1 (AMD). PL 1993, c. 475, §3 (AMD). PL 1995, c. 224, §1 (AMD). PL 1995,

c. 356, §20 (AMD). PL 1995, c. 668, §2 (AMD). PL 1995, c. 680, §3 (RPR). PL 1997, c. 393, §A17 (AMD). PL 1997, c. 464, §3 (AMD). PL 1999, c. 127, §A33 (AMD). PL 1999, c. 644, §1 (AMD). PL 2001, c. 389, §1 (AMD). PL 2001, c. 439, §OOO1 (AMD). PL 2001, c. 667, §A34 (AMD). PL 2003, c. 102, §1 (AMD). PL 2007, c. 475, §8 (AMD). PL 2007, c. 518, §4 (AMD). PL 2009, c. 142, §3 (AMD). PL 2011, c. 341, §6 (AMD). PL 2011, c. 464, §4 (AMD). PL 2011, c. 691, Pt. A, §12 (AMD). PL 2017, c. 148, §3 (AMD).

§15-A. Issuance of summons for criminal offense

1. A law enforcement officer who has probable cause to believe a crime has been or is being committed by a person may issue or have delivered a written summons to that person directing that person to appear in the appropriate trial court to answer the allegation that the person has committed the crime. The summons must include the signature of the officer, a brief description of the alleged crime, the time and place of the alleged crime and the time, place and date the person is to appear in court. The form used must be the Uniform Summons and Complaint. A person to whom a summons is issued or delivered must give a written promise to appear. If the person refuses to sign the summons after having been ordered to do so by a law enforcement officer, the person commits a Class E crime. As soon as practicable after service of the summons, the officer shall cause a copy of the summons to be filed with the court.
[PL 2005, c. 326, §3 (AMD); PL 2005, c. 326, §5 (AFF).]

2. Any person who a law enforcement officer has probable cause to believe has committed or is committing a crime other than one listed under section 15, subsection 1, paragraph A, and to whom a law enforcement officer is authorized to deliver a summons pursuant to subsection 1, who intentionally fails or refuses to provide to that officer reasonably credible evidence of that person's correct name, address or date of birth commits a Class E crime, if the person persists in the failure or refusal after having been informed by the officer of the provisions of this subsection. If that person furnishes the officer evidence of the person's correct name, address and date of birth and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period the verification is being attempted, the officer may require the person to remain in the officer's presence for a period not to exceed 2 hours. During this period, if the officer reasonably believes that the officer's safety or the safety of others present requires, the officer may search for any dangerous weapon by an external patting of that person's outer clothing. If in the course of the search the officer feels an object that the officer reasonably believes to be a dangerous weapon, the officer may take such action as is necessary to examine the object, but may take permanent possession of the object only if it is subject to forfeiture. The requirement that the person remain in the presence of the officer does not constitute an arrest. After informing that person of the provisions of this subsection, the officer may arrest the person either if the person intentionally refuses to furnish any evidence of that person's correct name, address or date of birth or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the person has intentionally failed to provide reasonably credible evidence of the person's correct name, address or date of birth.
[PL 2003, c. 657, §2 (AMD).]

3. If, at any time subsequent to an arrest made pursuant to subsection 2, it appears that the evidence of the person's correct name, address and date of birth was accurate, the person must be released from custody and any record of that custody must show that the person was released for that reason. If, upon trial for violating subsection 2, a person is acquitted on the ground that the evidence of the person's correct name, address and date of birth was accurate, the record of acquittal must show that that was the ground.
[PL 2003, c. 657, §2 (AMD).]

4. Any person who fails to appear in court as directed by a summons served on that person pursuant to subsection 1 or to otherwise respond in accordance with law on or before the date specified in the

summons commits a Class E crime. Upon that person's failure to appear or respond, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or respond resulted from just cause.
[PL 1991, c. 459, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 375 (NEW). PL 1991, c. 459, §4 (AMD). PL 2003, c. 657, §2 (AMD). PL 2005, c. 326, §3 (AMD). PL 2005, c. 326, §5 (AFF).

§16. Warrantless arrests by a private person

Except as otherwise specifically provided, a private person has the authority to arrest without a warrant: [PL 2007, c. 173, §7 (AMD).]

1. Any person who the private person has probable cause to believe has committed or is committing:

A. Murder; or [PL 1977, c. 510, §25 (RPR).]

B. Any Class A, Class B or Class C crime. [PL 1975, c. 740, §22 (NEW).]
[PL 2007, c. 173, §7 (AMD).]

2. Any person who, in fact, is committing in the private person's presence and in a public place any of the Class D or Class E crimes described in section 207; 209; 211; 254; 255-A; 501-A, subsection 1, paragraph B; 503; 751; 806; or 1002.

A. [PL 2007, c. 466, Pt. B, §11 (RP); PL 2007, c. 466, Pt. B, §12 (AFF).]
[PL 2007, c. 518, §5 (AMD).]

3. For the purposes of subsection 2, in the presence has the same meaning given in section 15, subsection 2.
[PL 1975, c. 740, §22 (NEW).]

SECTION HISTORY

PL 1975, c. 740, §22 (NEW). PL 1977, c. 510, §25 (AMD). PL 1979, c. 127, §125 (AMD). PL 2007, c. 144, §1 (AMD). PL 2007, c. 173, §7 (AMD). PL 2007, c. 466, Pt. B, §11 (AMD). PL 2007, c. 466, Pt. B, §12 (AFF). PL 2007, c. 518, §5 (AMD).

§17. Enforcement of civil violations

1. A law enforcement officer who has probable cause to believe that a civil violation has been committed by a person must issue or have delivered a written summons to that person directing the person to appear in the District Court to answer the allegation that the person has committed the violation. The summons must include the signature of the officer, a brief description of the alleged violation, the time and place of the alleged violation and the time, place and date the person is to appear in court. The form used must be the Violation Summons and Complaint, as prescribed in Title 29-A, section 2601, for traffic infractions and the Uniform Summons and Complaint for other civil violations. A person to whom a summons is issued or delivered must give a written promise to appear. If the person refuses to sign the summons after having been ordered to do so by a law enforcement officer, the person commits a Class E crime. The law enforcement officer may not order a person to sign the summons for a civil violation unless the civil violation is an offense defined in Title 12; Title 23, section 1980; Title 28-A, section 2052; or Title 29-A.

Every law enforcement officer issuing a Violation Summons and Complaint charging the commission of a traffic infraction shall file the original of the Violation Summons and Complaint with the violations bureau within 5 days of the issuance of that Violation Summons and Complaint. Every law enforcement officer issuing a Uniform Summons and Complaint that charges the commission of an offense shall file the original of the Uniform Summons and Complaint with the District Court having jurisdiction over

the offense or in such other location as instructed by the Chief Judge of the District Court without undue delay and, in any event, within 5 days after the issuance of the Uniform Summons and Complaint.
[PL 2003, c. 657, §3 (AMD).]

2. Any person to whom a law enforcement officer is authorized to issue or deliver a summons pursuant to subsection 1 who intentionally fails or refuses to provide the officer reasonably credible evidence of the person's correct name, address or date of birth commits a Class E crime, if the person persists in that failure or refusal after having been informed by the officer of the provisions of this subsection. If the person furnishes the officer evidence of that person's correct name, address and date of birth and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period that verification is being attempted, the officer may require the person to remain in the officer's presence for a period not to exceed 2 hours. During this period, if the officer reasonably believes that the officer's safety or the safety of others present requires, the officer may search for any dangerous weapon by an external patting of the person's outer clothing. If in the course of the search the officer feels an object that the officer reasonably believes to be a dangerous weapon, the officer may take such action as is necessary to examine the object, but may take permanent possession of the object only if it is subject to forfeiture. The requirement that the person remain in the presence of the officer does not constitute an arrest.

After informing the person of the provisions of this subsection, the officer may arrest the person either if the person intentionally refuses to furnish any evidence of that person's correct name, address or date of birth or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the person has intentionally failed to provide reasonably credible evidence of the person's correct name, address or date of birth.
[PL 2003, c. 657, §4 (AMD).]

3. If, at any time subsequent to an arrest made pursuant to subsection 2, it appears that the evidence of the person's correct name, address and date of birth was accurate, the person must be released from custody and any record of that custody must show that the person was released for that reason. If, upon trial for violating subsection 2, a person is acquitted on the ground that the evidence of the person's correct name, address and date of birth was accurate, the record of acquittal must show that that was the ground.
[PL 2003, c. 657, §4 (AMD).]

4. Any person who fails to appear in court as directed by a summons served on that person pursuant to subsection 1 or to otherwise respond in accordance with law on or before the date specified in the summons commits a Class E crime. Upon that person's failure to appear or respond, the court may issue a warrant of arrest. It is an affirmative defense to prosecution under this subsection that the failure to appear or respond resulted from just cause.
[PL 1991, c. 459, §5 (AMD).]

SECTION HISTORY

PL 1975, c. 740, §22 (NEW). PL 1975, c. 770, §§81,82 (AMD). PL 1977, c. 671, §20 (AMD). PL 1985, c. 506, §§B12,13 (AMD). PL 1991, c. 459, §5 (AMD). PL 1991, c. 549, §7 (AMD). PL 1991, c. 549, §17 (AFF). PL 1991, c. 733, §5 (AMD). PL 1995, c. 65, §A56 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2003, c. 657, §§3,4 (AMD).

CHAPTER 2

CRIMINAL LIABILITY; ELEMENTS OF CRIMES

§31. Voluntary conduct

(REPEALED)

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1999, c. 195, §1 (RP).

§32. Elements of crimes defined

A person may not be convicted of a crime unless each element of the crime is proved by the State beyond a reasonable doubt. "Element of the crime" means the forbidden conduct; the attendant circumstances specified in the definition of the crime; the intention, knowledge, recklessness or negligence as may be required; and any required result. [PL 2007, c. 475, §9 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 475, §9 (AMD).

§33. Result as an element; causation

1. Unless otherwise provided, when causing a result is an element of a crime, causation may be found when the result would not have occurred but for the conduct of the defendant, operating either alone or concurrently with another cause.
[PL 2017, c. 432, Pt. C, §1 (NEW).]

2. In cases in which concurrent causation is generated as an issue, the defendant's conduct must also have been sufficient by itself to produce the result.
[PL 2017, c. 432, Pt. C, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2017, c. 432, Pt. C, §1 (RPR).

§34. Culpable state of mind as an element

1. A person is not guilty of a crime unless that person acted intentionally, knowingly, recklessly or negligently, as the law defining the crime specifies, with respect to each other element of the crime, except as provided in subsection 4. When the state of mind required to establish an element of a crime is specified as "willfully," "corruptly," "maliciously" or by some other term importing a state of mind, that element is satisfied if, with respect thereto, the person acted intentionally or knowingly.
[PL 1999, c. 23, §2 (AMD).]

2. When the definition of a crime specifies the state of mind sufficient for the commission of that crime, but without distinguishing among the elements thereof, the specified state of mind applies to all the other elements of the crime, except as provided in subsection 4.
[PL 1999, c. 23, §2 (AMD).]

3. When the law provides that negligence is sufficient to establish an element of a crime, that element is also established if, with respect thereto, a person acted intentionally, knowingly or recklessly. When the law provides that recklessness is sufficient to establish an element of a crime, that element is also established if, with respect thereto, a person acted intentionally or knowingly. When the law provides that acting knowingly is sufficient to establish an element of the crime, that element is also established if, with respect thereto, a person acted intentionally.
[PL 1981, c. 324, §14 (NEW).]

4. Unless otherwise expressly provided, a culpable mental state need not be proved with respect to:

A. Any fact that is solely a basis for sentencing classification; [PL 1999, c. 23, §2 (AMD).]

B. Any element of the crime as to which it is expressly stated that it must "in fact" exist; [PL 1999, c. 23, §2 (AMD).]

C. Any element of the crime as to which the statute expressly provides that a person may be guilty without a culpable state of mind as to that element; [PL 1999, c. 23, §2 (NEW).]

D. Any element of the crime as to which a legislative intent to impose liability without a culpable state of mind as to that element otherwise appears; [PL 1999, c. 23, §2 (NEW).]

E. Any criminal statute as to which it is expressly stated to be a "strict liability crime" or otherwise expressly reflects a legislative intent to impose criminal liability without proof by the State of a culpable mental state with respect to any of the elements of the crime; or [PL 1999, c. 23, §2 (NEW).]

F. Any criminal statute as to which a legislative intent to impose liability without a culpable state of mind as to any of the elements of the crime otherwise appears. [PL 1999, c. 23, §2 (NEW).]

[PL 1999, c. 23, §2 (AMD).]

4-A. As used in this section, "strict liability crime" means a crime that, as legally defined, does not include a culpable mental state element with respect to any of the elements of the crime and thus proof by the State of a culpable state of mind as to that crime is not required.

[PL 1999, c. 23, §2 (NEW).]

5.

[PL 1999, c. 23, §2 (RP).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1981, c. 470, §B6 (AMD). PL 1999, c. 23, §2 (AMD).

§35. Definitions of culpable states of mind

1. "Intentionally."

A. A person acts intentionally with respect to a result of the person's conduct when it is the person's conscious object to cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts intentionally with respect to attendant circumstances when the person is aware of the existence of such circumstances or believes that they exist. [PL 2007, c. 173, §8 (AMD).]

[PL 2007, c. 173, §8 (AMD).]

2. "Knowingly."

A. A person acts knowingly with respect to a result of the person's conduct when the person is aware that it is practically certain that the person's conduct will cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts knowingly with respect to attendant circumstances when the person is aware that such circumstances exist. [PL 2007, c. 173, §8 (AMD).]

[PL 2007, c. 173, §8 (AMD).]

3. "Recklessly."

A. A person acts recklessly with respect to a result of the person's conduct when the person consciously disregards a risk that the person's conduct will cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts recklessly with respect to attendant circumstances when the person consciously disregards a risk that such circumstances exist. [PL 2007, c. 173, §8 (AMD).]

C. For purposes of this subsection, the disregard of the risk, when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation. [PL 2007, c. 173, §8 (AMD).]

[PL 2007, c. 173, §8 (AMD).]

4. "Criminal negligence."

A. A person acts with criminal negligence with respect to a result of the person's conduct when the person fails to be aware of a risk that the person's conduct will cause such a result. [PL 2007, c. 173, §8 (AMD).]

B. A person acts with criminal negligence with respect to attendant circumstances when the person fails to be aware of a risk that such circumstances exist. [PL 2007, c. 173, §8 (AMD).]

C. For purposes of this subsection, the failure to be aware of the risk, when viewed in light of the nature and purpose of the person's conduct and the circumstances known to the person, must involve a gross deviation from the standard of conduct that a reasonable and prudent person would observe in the same situation. [PL 2007, c. 173, §8 (AMD).]

[PL 2007, c. 173, §8 (AMD).]

5. "Culpable." A person acts culpably when the person acts with the intention, knowledge, recklessness or criminal negligence as is required.

[PL 2007, c. 173, §8 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 173, §8 (AMD).

§36. Ignorance or mistake

1. Evidence of ignorance or mistake as to a matter of fact or law may raise a reasonable doubt as to the existence of a required culpable state of mind.

[PL 1981, c. 324, §14 (NEW).]

2. Ignorance or mistake as to a matter of fact or law is a defense only if the law provides that the state of mind established by such ignorance or mistake constitutes a defense.

[PL 1981, c. 324, §14 (NEW).]

3. Although ignorance or mistake would otherwise afford a defense to the crime charged, the defense is not available if the defendant would be guilty of another crime had the situation been as the defendant supposed.

[PL 2007, c. 173, §9 (AMD).]

4. It is an affirmative defense if the defendant engages in conduct that the defendant believes does not legally constitute a crime if:

A. The statute violated is not known to the defendant and has not been published or otherwise reasonably made available prior to the conduct alleged; or [PL 1981, c. 324, §14 (NEW).]

B. The defendant acts in reasonable reliance upon an official statement, afterward determined to be invalid or erroneous, contained in:

(1) A statute, ordinance or other enactment;

(2) A final judicial decision, opinion or judgment;

(3) An administrative order or grant of permission; or

(4) An official interpretation of the public officer or body charged by law with responsibility for the interpretation, administration or enforcement of the statute defining the crime. This subsection does not impose any duty to make any such official interpretation. [PL 1981, c. 324, §14 (NEW).]

[PL 2007, c. 173, §10 (AMD).]

5. A mistaken belief that facts exist which would constitute an affirmative defense is not an affirmative defense, except as otherwise expressly provided.
[PL 1981, c. 324, §14 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 173, §§9, 10 (AMD).

§37. Intoxication

1. Except as provided in subsection 2, evidence of intoxication may raise a reasonable doubt as to the existence of a required culpable state of mind.
[PL 1981, c. 324, §14 (NEW).]

2. When recklessness establishes an element of the offense, if a person, due to self-induced intoxication, is unaware of a risk of which the person would have been aware had the person not been intoxicated, such unawareness is immaterial.
[PL 2007, c. 173, §11 (AMD).]

3. As used in this section:

A. "Intoxication" means a disturbance of mental capacities resulting from the introduction of alcohol, drugs or similar substances into the body; and [PL 1981, c. 324, §14 (NEW).]

B. "Self-induced intoxication" means intoxication caused when a person intentionally or knowingly introduces into the person's body substances that the person knows or ought to know tend to cause intoxication, unless the person introduces them pursuant to medical advice or under such duress as would afford a defense to a charge of crime. [PL 2007, c. 173, §12 (AMD).]
[PL 2007, c. 173, §12 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2007, c. 173, §§11, 12 (AMD).

§38. Mental abnormality

Evidence of an abnormal condition of the mind may raise a reasonable doubt as to the existence of a required culpable state of mind. [PL 1981, c. 324, §14 (NEW).]

An actor does not suffer from an abnormal condition of the mind based solely on the discovery of, knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the actor or in which the actor and victim dated or had a romantic or sexual relationship. [PL 2019, c. 462, §1 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 2019, c. 462, §1 (AMD).

§39. Insanity

1. A defendant is not criminally responsible by reason of insanity if, at the time of the criminal conduct, as a result of mental disease or defect, the defendant lacked substantial capacity to appreciate the wrongfulness of the criminal conduct.
[PL 2005, c. 263, §5 (AMD).]

2. As used in this section, "mental disease or defect" means only those severely abnormal mental conditions that grossly and demonstrably impair a person's perception or understanding of reality. An abnormality manifested only by repeated criminal conduct or excessive use of alcohol, drugs or similar substances, in and of itself, does not constitute a mental disease or defect.
[PL 1985, c. 796, §5 (AMD).]

3. Lack of criminal responsibility by reason of insanity is an affirmative defense.
[PL 2005, c. 263, §6 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1985, c. 796, §5 (AMD). PL 2005, c. 263, §§5,6 (AMD).

§40. Procedure upon plea of not guilty coupled with plea of not criminally responsible by reason of insanity

1. When the defendant enters a plea of not guilty together with a plea of not criminally responsible by reason of insanity, the defendant shall also elect whether the trial must be in 2 stages as provided for in this section, or a unitary trial in which both the issues of guilt and of insanity are submitted simultaneously to the jury. At the defendant's election, the jury must be informed that the 2 pleas have been made and that the trial will be in 2 stages.
[PL 2005, c. 263, §7 (AMD).]

2. If a 2-stage trial is elected by the defendant, there must be a separation of the issue of guilt from the issue of insanity in the following manner.

A. The issue of guilt must be tried first and the issue of insanity tried only if the jury returns a verdict of guilty. If the jury returns a verdict of not guilty, the proceedings must terminate. [PL 2005, c. 263, §7 (AMD).]

B. Evidence of mental disease or defect, as defined in section 39, subsection 2, is not admissible in the guilt or innocence phase of the trial for the purpose of establishing insanity. Such evidence must be admissible for that purpose only in the 2nd phase following a verdict of guilty. [PL 2005, c. 263, §7 (AMD).]

[PL 2005, c. 263, §7 (AMD).]

3. The issue of insanity must be tried before the same jury as tried the issue of guilt. Alternate jurors who were present during the first phase of the trial but who did not participate in the deliberations and verdict thereof may be substituted for jurors who did participate. The defendant may elect to have the issue of insanity tried by the court without a jury.
[PL 2005, c. 263, §7 (AMD).]

4. If the jury in the first phase returns a guilty verdict, the trial must proceed to the 2nd phase. The defendant and the State may rely upon evidence admitted during the first phase or they may recall witnesses. Any evidence relevant to insanity is admissible. The order of proof must reflect that the defendant has the burden of establishing the defendant's lack of criminal responsibility by reason of insanity. The jury shall return a verdict that the defendant is criminally responsible or not criminally responsible by reason of insanity. If the defendant is found criminally responsible, the court shall sentence the defendant according to law.
[PL 2005, c. 263, §7 (AMD).]

5. This section does not apply to cases tried before the court without a jury.
[PL 1981, c. 324, §14 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §14 (NEW). PL 1985, c. 796, §6 (AMD). PL 2005, c. 263, §7 (AMD).

CHAPTER 3

CRIMINAL LIABILITY OF ACCOMPLICES, ORGANIZATIONS AND PLANTS

§51. Basis for liability

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §16 (RP).

§52. Ignorance and mistake

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §16 (RP).

§53. Immaturity

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 127, §126 (AMD). PL 1981, c. 324, §17 (RP).

§54. Duress

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §18 (RP).

§55. Consent

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §18 (RP).

§56. Causation

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §18 (RP).

§57. Criminal liability for conduct of another; accomplices

1. A person may be guilty of a crime if it is committed by the conduct of another person for which the person is legally accountable as provided in this section.
[PL 2007, c. 173, §13 (AMD).]

2. A person is legally accountable for the conduct of another person when:

A. Acting with the intention, knowledge, recklessness or criminal negligence that is sufficient for the commission of the crime, the person causes an innocent person, or a person not criminally responsible, to engage in such conduct; or [PL 2007, c. 173, §13 (AMD).]

B. The person is made accountable for the conduct of such other person by the law defining the crime; or [PL 2007, c. 173, §13 (AMD).]

C. The person is an accomplice of such other person in the commission of the crime, as provided in subsection 3. [PL 2007, c. 173, §13 (AMD).]
[PL 2007, c. 173, §13 (AMD).]

3. A person is an accomplice of another person in the commission of a crime if:

A. With the intent of promoting or facilitating the commission of the crime, the person solicits such other person to commit the crime, or aids or agrees to aid or attempts to aid such other person

in planning or committing the crime. A person is an accomplice under this subsection to any crime the commission of which was a reasonably foreseeable consequence of the person's conduct; or [PL 2007, c. 173, §13 (AMD).]

B. The person's conduct is expressly declared by law to establish the person's complicity. [PL 2007, c. 173, §13 (AMD).]

[PL 2007, c. 173, §13 (AMD).]

4. A person who is legally incapable of committing a particular crime may be guilty thereof if it is committed by the conduct of another person for which the person is legally accountable.

[PL 2007, c. 173, §13 (AMD).]

5. Unless otherwise expressly provided, a person is not an accomplice in a crime committed by another person if:

A. The person is the victim of that crime; [PL 2007, c. 173, §13 (AMD).]

B. The crime is so defined that it cannot be committed without the person's cooperation; or [PL 2007, c. 173, §13 (AMD).]

C. The person terminates complicity prior to the commission of the crime by:

(1) Informing the person's accomplice that the person has abandoned the criminal activity; and

(2) Leaving the scene of the prospective crime, if the person is present thereat. [PL 2007, c. 173, §13 (AMD).]

[PL 2007, c. 173, §13 (AMD).]

6. An accomplice may be convicted on proof of the commission of the crime and of the accomplice's complicity therein, though the person claimed to have committed the crime has not been prosecuted or convicted, or has been convicted of a different crime or degree of crime, or is not subject to criminal prosecution pursuant to section 10-A, subsection 1, or has an immunity to prosecution or conviction, or has been acquitted.

[PL 2007, c. 173, §13 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §§25-A (AMD). PL 2007, c. 173, §13 (AMD).

§58. Mental abnormality

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§23,24 (AMD). PL 1981, c. 324, §19 (RP).

§58-A. Intoxication

(REPEALED)

SECTION HISTORY

PL 1975, c. 740, §25 (NEW). PL 1977, c. 510, §§26,27 (AMD). PL 1981, c. 324, §20 (RP).

§59. Procedure upon plea of not guilty coupled with plea of not guilty by reason of insanity

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §28 (AMD). PL 1977, c. 671, §21 (AMD). PL 1981, c. 324, §21 (RP).

§60. Criminal liability of an organization

1. An organization is guilty of a crime when:

A. It omits to discharge a specific duty of affirmative performance imposed on it by law, and the omission is prohibited by this code or by a statute defining a criminal offense outside of this code; or [PL 1975, c. 499, §1 (NEW).]

B. The conduct or result specified in the definition of the crime is engaged in or caused by an agent of the organization while acting within the scope of the agent's office or employment. [PL 2007, c. 173, §14 (AMD).]

[PL 2007, c. 173, §14 (AMD).]

2. It is no defense to the criminal liability of an organization that the individual upon whose conduct the liability of the organization is based has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2007, c. 173, §14 (AMD).

§61. Individual liability for conduct on behalf of organization

1. An individual is criminally liable for any conduct the individual performs in the name of an organization or in its behalf to the same extent as if it were performed in the individual's own name or behalf. Such an individual must be sentenced as if the conduct had been performed in the individual's own name or behalf.

[PL 2007, c. 173, §15 (AMD).]

2. If a criminal statute imposes a duty to act on an organization, any agent of the organization having primary responsibility for the discharge of the duty is criminally liable if the agent recklessly omits to perform the required act, and the agent must be sentenced as if the duty were imposed by law directly upon the agent.

[PL 2007, c. 173, §15 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2007, c. 173, §15 (AMD).

§62. Military orders

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §22 (RP).

CHAPTER 5

DEFENSES AND AFFIRMATIVE DEFENSES; JUSTIFICATION

§101. General rules for defenses and affirmative defenses; justification

1. The State is not required to negate any facts expressly designated as a "defense," or any exception, exclusion or authorization that is set out in the statute defining the crime by proof at trial, unless the existence of the defense, exception, exclusion or authorization is in issue as a result of evidence admitted at the trial that is sufficient to raise a reasonable doubt on the issue, in which case the State must disprove its existence beyond a reasonable doubt. This subsection does not require a trial court to instruct on an issue that has been waived by the defendant. The subject of waiver is addressed by the Maine Rules of Unified Criminal Procedure.

[PL 2015, c. 431, §35 (AMD).]

2. Where the statute explicitly designates a matter as an "affirmative defense," the matter so designated must be proved by the defendant by a preponderance of the evidence.
[PL 1981, c. 324, §24 (RPR).]

3. Conduct that is justifiable under this chapter constitutes a defense to any crime; except that, if a person is justified in using force against another, but the person recklessly injures or creates a risk of injury to 3rd persons, the justification afforded by this chapter is unavailable in a prosecution for such recklessness. If a defense provided under this chapter is precluded solely because the requirement that the person's belief be reasonable has not been met, the person may be convicted only of a crime for which recklessness or criminal negligence suffices.
[PL 2007, c. 475, §10 (AMD).]

4. The fact that conduct may be justifiable under this chapter does not abolish or impair any remedy for such conduct which is available in any civil action.
[PL 1981, c. 324, §24 (NEW).]

5. For purposes of this chapter, use by a law enforcement officer, a corrections officer or a corrections supervisor of the following is use of nondeadly force:

A. Chemical mace or any similar substance composed of a mixture of gas and chemicals that has or is designed to have a disabling effect upon human beings; or [PL 2009, c. 336, §5 (NEW).]

B. A less-than-lethal munition that has or is designed to have a disabling effect upon human beings. For purposes of this paragraph, "less-than-lethal munition" means a low-kinetic energy projectile designed to be discharged from a firearm that is approved by the Board of Trustees of the Maine Criminal Justice Academy. [PL 2009, c. 336, §5 (NEW).]
[PL 2009, c. 336, §5 (RPR).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §24 (RPR). PL 1997, c. 185, §1 (AMD). PL 1999, c. 358, §1 (AMD). PL 2001, c. 386, §1 (AMD). PL 2007, c. 475, §10 (AMD). PL 2009, c. 336, §5 (AMD). PL 2015, c. 431, §35 (AMD).

§102. Public duty

1. Any conduct, other than the use of physical force under circumstances specifically dealt with in other sections of this chapter, is justifiable when it is authorized by law, including laws defining functions of public servants or the assistance to be rendered public servants in the performance of their duties; laws governing the execution of legal process or of military duty; and the judgments or orders of courts or other public tribunals.
[PL 1975, c. 499, §1 (NEW).]

2. The justification afforded by this section to public servants is not precluded:

A. By the fact that the law, order or process was defective provided it appeared valid on its face and the defect was not knowingly caused or procured by such public servant; or, [PL 1975, c. 499, §1 (NEW).]

B. As to persons assisting public servants, by the fact that the public servant to whom assistance was rendered exceeded the public servant's legal authority or that there was a defect of jurisdiction in the legal process or decree of the court or tribunal, provided the person believed the public servant to be engaged in the performance of the public servant's duties or that the legal process or court decree was competent. [PL 2007, c. 173, §16 (AMD).]
[PL 2007, c. 173, §16 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2007, c. 173, §16 (AMD).

§102-A. Military orders

1. It is a defense if the person engaged in the conduct charged to constitute a crime in obedience to an order of the person's superior in the armed services that the person did not know to be unlawful.
[PL 2007, c. 173, §17 (AMD).]

2. If the person was reckless in failing to know the unlawful nature of such an order, the defense is unavailable in a prosecution for a crime for which recklessness suffices to establish liability.
[PL 2007, c. 173, §17 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §25 (NEW). PL 2007, c. 173, §17 (AMD).

§103. Competing harms

1. Conduct that the person believes to be necessary to avoid imminent physical harm to that person or another is justifiable if the desirability and urgency of avoiding such harm outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the statute defining the crime charged. The desirability and urgency of such conduct may not rest upon considerations pertaining to the morality and advisability of such statute.
[PL 2007, c. 173, §18 (AMD).]

2. When the person was reckless or criminally negligent in bringing about the circumstances requiring a choice of harms or in appraising the necessity of the person's conduct, the justification provided in subsection 1 does not apply in a prosecution for any crime for which recklessness or criminal negligence, as the case may be, suffices to establish criminal liability.
[PL 2007, c. 173, §18 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2007, c. 173, §18 (AMD).

§103-A. Duress

1. It is a defense that, when a person engages in conduct that would otherwise constitute a crime, the person is compelled to do so by threat of imminent death or serious bodily injury to that person or another person or because that person was compelled to do so by force.
[PL 2007, c. 173, §19 (AMD).]

2. For purposes of this section, compulsion exists only if the force, threat or circumstances are such as would have prevented a reasonable person in the defendant's situation from resisting the pressure.
[PL 1981, c. 324, §26 (NEW).]

3. The defense set forth in this section is not available:

A. To a person who intentionally or knowingly committed the homicide for which the person is being tried; [PL 2007, c. 173, §19 (AMD).]

B. To a person who recklessly placed that person in a situation in which it was reasonably probable that the person would be subjected to duress; or [PL 2007, c. 173, §19 (AMD).]

C. To a person who with criminal negligence placed that person in a situation in which it was reasonably probable that the person would be subjected to duress, whenever criminal negligence suffices to establish culpability for the offense charged. [PL 2007, c. 173, §19 (AMD).]
[PL 2007, c. 173, §19 (AMD).]

SECTION HISTORY

PL 1981, c. 324, §26 (NEW). PL 2007, c. 173, §19 (AMD).

§103-B. Involuntary conduct

1. It is a defense that, when a person causes a result or engages in forbidden conduct, the person's act or omission to act is involuntary.
[PL 1999, c. 195, §2 (NEW).]

2. An omission to act is involuntary if the person fails to perform an act and:

A. The person is not capable of performing the act; [PL 1999, c. 195, §2 (NEW).]

B. The person has no legal duty to perform the act; or [PL 1999, c. 195, §2 (NEW).]

C. The person has no opportunity to perform the act. [PL 1999, c. 195, §2 (NEW).]
[PL 1999, c. 195, §2 (NEW).]

3. Possession of something is involuntary if the person:

A. Did not knowingly procure or receive the thing possessed; or [PL 1999, c. 195, §2 (NEW).]

B. Was not aware of the person's control of the possession for a sufficient period to have been able to terminate the person's possession of the thing. [PL 1999, c. 195, §2 (NEW).]
[PL 1999, c. 195, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 195, §2 (NEW).

§104. Use of force in defense of premises

1. A person in possession or control of premises or a person who is licensed or privileged to be thereon is justified in using nondeadly force upon another person when and to the extent that the person reasonably believes it necessary to prevent or terminate the commission of a criminal trespass by such other person in or upon such premises.
[PL 2007, c. 173, §20 (AMD).]

2. A person in possession or control of premises or a person who is licensed or privileged to be thereon is justified in using deadly force upon another person when and to the extent that the person reasonably believes it necessary to prevent an attempt by the other person to commit arson.
[PL 2007, c. 173, §20 (AMD).]

3. A person in possession or control of a dwelling place or a person who is licensed or privileged to be therein is justified in using deadly force upon another person:

A. Under the circumstances enumerated in section 108; or [PL 1975, c. 740, §26 (NEW).]

B. When the person reasonably believes that deadly force is necessary to prevent or terminate the commission of a criminal trespass by such other person, who the person reasonably believes:

(1) Has entered or is attempting to enter the dwelling place or has surreptitiously remained within the dwelling place without a license or privilege to do so; and

(2) Is committing or is likely to commit some other crime within the dwelling place. [PL 2007, c. 173, §20 (AMD).]
[PL 2007, c. 173, §20 (AMD).]

4. A person may use deadly force under subsection 3, paragraph B only if the person first demands the person against whom such deadly force is to be used to terminate the criminal trespass and the trespasser fails to immediately comply with the demand, unless the person reasonably believes that it would be dangerous to the person or a 3rd person to make the demand.
[PL 2007, c. 173, §20 (AMD).]

5. As used in this section:

A. Dwelling place has the same meaning provided in section 2, subsection 10; and [PL 1975, c. 740, §26 (NEW).]

B. Premises includes, but is not limited to, lands, private ways and any buildings or structures thereon. [PL 1975, c. 740, §26 (NEW).]

[PL 1975, c. 740, §26 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §26 (RPR). PL 2007, c. 173, §20 (AMD).

§105. Use of force in property offenses

A person is justified in using a reasonable degree of nondeadly force upon another person when and to the extent that the person reasonably believes it necessary to prevent what is or reasonably appears to be an unlawful taking of the person's property, or criminal mischief, or to retake the person's property immediately following its taking; but the person may use deadly force only under such circumstances as are prescribed in sections 104, 107 and 108. [PL 2007, c. 173, §21 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §27 (AMD). PL 2007, c. 173, §21 (AMD).

§106. Physical force by persons with special responsibilities

1. A parent, foster parent, guardian or other similar person responsible for the long term general care and welfare of a child is justified in using a reasonable degree of force against that child when and to the extent that the person reasonably believes it necessary to prevent or punish the child's misconduct. A person to whom such parent, foster parent, guardian or other responsible person has expressly delegated permission to so prevent or punish misconduct is similarly justified in using a reasonable degree of force. For purposes of this subsection, "child" means a person who has not attained 18 years of age and has not been ordered emancipated by a court pursuant to Title 15, section 3506-A.
[PL 2009, c. 336, §6 (AMD).]

1-A. For purposes of subsection 1, "reasonable degree of force" is an objective standard. To constitute a reasonable degree of force, the physical force applied to the child may result in no more than transient discomfort or minor temporary marks on that child.
[PL 2009, c. 336, §7 (AMD).]

2. A teacher or other person entrusted with the care or supervision of a person for special and limited purposes is justified in using a reasonable degree of nondeadly force against any such person who creates a disturbance when and to the extent that the teacher or other entrusted person reasonably believes it necessary to control the disturbing behavior or to remove a person from the scene of such disturbance.
[PL 2009, c. 336, §8 (AMD).]

3. A person responsible for the general care and supervision of a mentally incompetent person is justified in using a reasonable degree of nondeadly force against such person who creates a disturbance when and to the extent that the responsible person reasonably believes it necessary to control the disturbing behavior or to remove such person from the scene of such disturbance.
[PL 2009, c. 336, §9 (AMD).]

4. The justification extended in subsections 2 and 3 does not apply to the intentional, knowing or reckless use of nondeadly force that creates a substantial risk of extraordinary pain.
[PL 2009, c. 336, §10 (AMD).]

5. A person required by law to enforce rules and regulations, or to maintain decorum or safety, in a vessel, aircraft, vehicle, train or other carrier, or in a place where others are assembled, may use

nondeadly force when and to the extent that the person reasonably believes it necessary for such purposes.
[PL 2007, c. 173, §22 (AMD).]

6. A person acting under a reasonable belief that another person is about to commit suicide or to self-inflict serious bodily injury may use a degree of force on such other person as the person reasonably believes to be necessary to thwart such a result.
[PL 2007, c. 173, §22 (AMD).]

7. A licensed physician, or a person acting under a licensed physician's direction, may use force for the purpose of administering a recognized form of treatment that the physician reasonably believes will tend to safeguard the physical or mental health of the patient, provided such treatment is administered:

A. With consent of the patient or, if the patient is a minor or incompetent person, with the consent of the person entrusted with the patient's care and supervision; or [PL 2007, c. 173, §22 (AMD).]

B. In an emergency relating to health when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person concerned for the welfare of the patient would consent. [PL 1975, c. 499, §1 (NEW).]
[PL 2007, c. 173, §22 (AMD).]

8. A person identified in this section for purposes of specifying the rule of justification herein provided is not precluded from using force declared to be justifiable by another section of this chapter.
[PL 2007, c. 173, §22 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 127, §127 (AMD). PL 1979, c. 512, §22 (AMD). PL 1979, c. 663, §121 (AMD). PL 2003, c. 143, §§1,2 (AMD). PL 2007, c. 173, §22 (AMD). PL 2009, c. 336, §§6-10 (AMD).

§107. Physical force in law enforcement

1. A law enforcement officer is justified in using a reasonable degree of nondeadly force upon another person:

A. When and to the extent that the officer reasonably believes it necessary to effect an arrest or to prevent the escape from custody of an arrested person, unless the officer knows that the arrest or detention is illegal; or [PL 2003, c. 143, §3 (AMD).]

B. In self-defense or to defend a 3rd person from what the officer reasonably believes to be the imminent use of unlawful nondeadly force encountered while attempting to effect such an arrest or while seeking to prevent such an escape. [PL 2007, c. 173, §23 (AMD).]
[PL 2007, c. 173, §23 (AMD).]

2. A law enforcement officer is justified in using deadly force only when the officer reasonably believes such force is necessary:

A. For self-defense or to defend a 3rd person from what the officer reasonably believes is the imminent use of unlawful deadly force; or [PL 2007, c. 173, §23 (AMD).]

B. To effect an arrest or prevent the escape from arrest of a person when the law enforcement officer reasonably believes that the person has committed a crime involving the use or threatened use of deadly force, is using a dangerous weapon in attempting to escape or otherwise indicates that the person is likely to endanger seriously human life or to inflict serious bodily injury unless apprehended without delay; and

(1) The law enforcement officer has made reasonable efforts to advise the person that the officer is a law enforcement officer attempting to effect an arrest or prevent the escape from

arrest and the officer has reasonable grounds to believe that the person is aware of this advice; or

(2) The law enforcement officer reasonably believes that the person to be arrested otherwise knows that the officer is a law enforcement officer attempting to effect an arrest or prevent the escape from arrest.

For purposes of this paragraph, "a reasonable belief that another has committed a crime involving use or threatened use of deadly force" means such reasonable belief in facts, circumstances and the law that, if true, would constitute such an offense by that person. If the facts and circumstances reasonably believed would not constitute such an offense, an erroneous but reasonable belief that the law is otherwise justifies the use of deadly force to make an arrest or prevent an escape. [PL 2007, c. 173, §23 (AMD).]

[PL 2007, c. 173, §23 (AMD).]

3. A private person who has been directed by a law enforcement officer to assist the officer in effecting an arrest or preventing an escape from custody is justified in using:

A. A reasonable degree of nondeadly force when and to the extent that the private person reasonably believes such to be necessary to carry out the officer's direction, unless the private person believes the arrest is illegal; or [PL 2003, c. 143, §3 (AMD).]

B. Deadly force only when the private person reasonably believes such to be necessary for self-defense or to defend a 3rd person from what the private person reasonably believes to be the imminent use of unlawful deadly force, or when the law enforcement officer directs the private person to use deadly force and the private person believes the officer is authorized to use deadly force under the circumstances. [PL 2007, c. 173, §23 (AMD).]

[PL 2007, c. 173, §23 (AMD).]

4. A private person acting on that private person's own is justified in using:

A. A reasonable degree of nondeadly force upon another person when and to the extent that the private person reasonably believes it necessary to effect an arrest or detention that is lawful for the private person to make or prevent the escape from such an arrest or detention; or [PL 2007, c. 173, §23 (AMD).]

B. Deadly force only when the private person reasonably believes such force is necessary:

(1) To defend the person or a 3rd person from what the private citizen reasonably believes to be the imminent use of unlawful deadly force; or

(2) To effect a lawful arrest or prevent the escape from such arrest of a person who in fact:

(a) Has committed a crime involving the use or threatened use of deadly force, or is using a dangerous weapon in attempting to escape; and

(b) The private citizen has made reasonable efforts to advise the person that the citizen is a private citizen attempting to effect an arrest or prevent the escape from arrest and has reasonable grounds to believe the person is aware of this advice or the citizen reasonably believes that the person to be arrested otherwise knows that the citizen is a private citizen attempting to effect an arrest or prevent the escape from arrest. [PL 2003, c. 143, §3 (AMD).]

[PL 2007, c. 173, §23 (AMD).]

5. Except where otherwise expressly provided, a corrections officer, corrections supervisor or law enforcement officer in a facility where persons are confined, pursuant to an order of a court or as a result of an arrest, is justified in using deadly force against such persons under the circumstances described in subsection 2. The officer or another individual responsible for the custody, care or treatment of those persons is justified in using a reasonable degree of nondeadly force when and to the

extent the officer or the individual reasonably believes it necessary to prevent any escape from custody or to enforce the rules of the facility.
[PL 1995, c. 215, §2 (AMD).]

5-A. A corrections officer, corrections supervisor or law enforcement officer is justified in using deadly force against a person confined in the Maine State Prison when the officer or supervisor reasonably believes that deadly force is necessary to prevent an escape from custody. The officer or supervisor shall make reasonable efforts to advise the person that if the attempt to escape does not stop immediately, deadly force will be used. This subsection does not authorize any corrections officer, corrections supervisor or law enforcement officer who is not employed by a state agency to use deadly force.
[PL 2003, c. 143, §3 (AMD).]

6.

[PL 1975, c. 740, §32 (RP).]

7. Use of force that is not justifiable under this section in effecting an arrest does not render illegal an arrest that is otherwise legal and the use of such unjustifiable force does not render inadmissible anything seized incident to a legal arrest.
[PL 1975, c. 499, §1 (NEW).]

8. Nothing in this section constitutes justification for conduct by a law enforcement officer or a private person amounting to an offense against innocent persons whom the officer or private person is not seeking to arrest or retain in custody.
[PL 2003, c. 143, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§28-33 (AMD). PL 1979, c. 512, §23 (AMD). PL 1989, c. 18, §§2,3 (AMD). PL 1989, c. 502, §§C5,C6 (AMD). PL 1995, c. 215, §§2,3 (AMD). PL 2003, c. 143, §3 (AMD). PL 2007, c. 173, §23 (AMD).

§108. Physical force in defense of a person

1. A person is justified in using a reasonable degree of nondeadly force upon another person in order to defend the person or a 3rd person from what the person reasonably believes to be the imminent use of unlawful, nondeadly force by such other person, and the person may use a degree of such force that the person reasonably believes to be necessary for such purpose. However, such force is not justifiable if:

A. With a purpose to cause physical harm to another person, the person provoked the use of unlawful, nondeadly force by such other person; or [PL 2007, c. 173, §24 (AMD).]

B. The person was the initial aggressor, unless after such aggression the person withdraws from the encounter and effectively communicates to such other person the intent to do so, but the other person notwithstanding continues the use or threat of unlawful, nondeadly force; or [PL 2007, c. 173, §24 (AMD).]

C. The force involved was the product of a combat by agreement not authorized by law. [PL 1975, c. 499, §1 (NEW).]
[PL 2007, c. 173, §24 (AMD).]

1-A. A person is not justified in using nondeadly force against another person who that person knows or reasonably should know is a law enforcement officer attempting to effect an arrest or detention, regardless of whether the arrest or detention is legal. A person is justified in using the degree of nondeadly force the person reasonably believes is necessary to defend the person or a 3rd person against a law enforcement officer who, in effecting an arrest or detention, uses nondeadly force not justified under section 107, subsection 1.

[PL 1997, c. 351, §1 (NEW).]

2. A person is justified in using deadly force upon another person:

A. When the person reasonably believes it necessary and reasonably believes such other person is:

(1) About to use unlawful, deadly force against the person or a 3rd person; or

(2) Committing or about to commit a kidnapping, robbery or a violation of section 253, subsection 1, paragraph A, against the person or a 3rd person; or [PL 1989, c. 878, Pt. B, §15 (AMD).]

B. When the person reasonably believes:

(1) That such other person has entered or is attempting to enter a dwelling place or has surreptitiously remained within a dwelling place without a license or privilege to do so; and

(2) That deadly force is necessary to prevent the infliction of bodily injury by such other person upon the person or a 3rd person present in the dwelling place; [PL 2007, c. 173, §24 (AMD).]

C. However, a person is not justified in using deadly force as provided in paragraph A if:

(1) With the intent to cause physical harm to another, the person provokes such other person to use unlawful deadly force against anyone;

(2) The person knows that the person against whom the unlawful deadly force is directed intentionally and unlawfully provoked the use of such force; or

(3) The person knows that the person or a 3rd person can, with complete safety:

(a) Retreat from the encounter, except that the person or the 3rd person is not required to retreat if the person or the 3rd person is in the person's dwelling place and was not the initial aggressor;

(b) Surrender property to a person asserting a colorable claim of right thereto; or

(c) Comply with a demand that the person abstain from performing an act that the person is not obliged to perform. [PL 2007, c. 173, §24 (AMD).]

[PL 2007, c. 173, §24 (AMD).]

3. A person is not justified in using force against another based solely on the discovery of, knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the person or in which the person and victim dated or had a romantic or sexual relationship.

[PL 2019, c. 462, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §34 (AMD). PL 1979, c. 701, §19 (AMD). PL 1989, c. 878, §B15 (AMD). PL 1997, c. 351, §1 (AMD). PL 2007, c. 173, §24 (AMD). PL 2019, c. 462, §2 (AMD).

§109. Consent

1. It is a defense that, when a defendant engages in conduct which would otherwise constitute a crime against the person or property of another, such other consented to the conduct and an element of the crime is negated as a result of such consent.

[PL 1981, c. 324, §27 (NEW).]

2. When conduct is a crime because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense only if:

A. Neither the injury inflicted nor the injury threatened was such as to endanger life or to cause serious bodily injury; [PL 1981, c. 324, §27 (NEW).]

B. The conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or [PL 1981, c. 324, §27 (NEW).]

C. The conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods, and the persons subjected to such conduct or injury have been made aware of the risks involved prior to giving consent. [PL 1981, c. 324, §27 (NEW).]

[PL 1981, c. 324, Pt. 27 (NEW).]

3. Consent is not a defense within the meaning of this section if:

A. It is given by a person who is declared by a statute or by a judicial decision to be legally incompetent to authorize the conduct charged to constitute the crime, and such incompetence is manifest or known to the actor; [PL 1981, c. 324, §27 (NEW).]

B. It is given by a person who, by reason of intoxication, physical illness, mental illness or mental defect, including, but not limited to, dementia and other cognitive impairments, or youth, is manifestly unable, or known by the defendant to be unable, to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the crime; or [PL 2013, c. 414, §1 (AMD).]

C. It is induced by force, duress or deception or undue influence. [PL 2013, c. 414, §2 (AMD).]

[PL 2013, c. 414, §§1, 2 (AMD).]

4. As used in this section, "undue influence" means the misuse of real or apparent authority or the use of manipulation by a person in a trusting, confidential or fiduciary relationship with a person who is an incapacitated adult as defined in Title 22, section 3472, subsection 10 or is a dependent adult as defined in Title 22, section 3472, subsection 6 and who is wholly or partially dependent upon that person or others for care or support, either emotional or physical.

[PL 2013, c. 414, §3 (NEW).]

SECTION HISTORY

PL 1981, c. 324, §27 (NEW). PL 2013, c. 414, §§1-3 (AMD).

§110. Threat to use deadly force against a law enforcement officer

A person otherwise justified in threatening to use deadly force against another is not justified in doing so with the use of a firearm or other dangerous weapon if the person knows or should know that the other person is a law enforcement officer, unless the person knows that the law enforcement officer is not in fact engaged in the performance of the law enforcement officer's public duty, or unless the person is justified under this chapter in using deadly force against the law enforcement officer. A law enforcement officer may not make a nonconsensual warrantless entry into a dwelling place solely in response to a threat not justified under this section. [PL 1997, c. 289, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 289, §1 (NEW).

PART 2

SUBSTANTIVE OFFENSES

CHAPTER 7

OFFENSES OF GENERAL APPLICABILITY

§151. Criminal conspiracy

1. A person is guilty of criminal conspiracy if, with the intent that conduct be performed that in fact would constitute a crime or crimes, the actor agrees with one or more others to engage in or cause the performance of the conduct and the most serious crime that is the object of the conspiracy is:

A. Murder. Violation of this paragraph is a Class A crime; [PL 2001, c. 383, §5 (NEW); PL 2001, c. 383, §156 (AFF).]

B. A Class A crime. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §5 (NEW); PL 2001, c. 383, §156 (AFF).]

C. A Class B crime. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §5 (NEW); PL 2001, c. 383, §156 (AFF).]

D. A Class C crime. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §5 (NEW); PL 2001, c. 383, §156 (AFF).]

E. A Class D or Class E crime. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §5 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

2. If the actor knows that one with whom the actor agrees has agreed or will agree with a 3rd person to effect the same objective, the actor is deemed to have agreed with the 3rd person, whether or not the actor knows the identity of the 3rd person.

[PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

3. A person who conspires to commit more than one crime is guilty of only one conspiracy if the crimes are the object of the same agreement or continuous conspiratorial relationship.

[PL 1975, c. 499, §1 (NEW).]

4. A person may not be convicted of criminal conspiracy unless it is alleged and proved that the actor, or one with whom the actor conspired, took a substantial step toward commission of the crime. A substantial step is any conduct which, under the circumstances in which it occurs, is strongly corroborative of the firmness of the actor's intent to complete commission of the crime; provided that speech alone may not constitute a substantial step.

[PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

5. Accomplice liability for crimes committed in furtherance of the criminal conspiracy is to be determined by the provisions of section 57.

[PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

6. For the purpose of determining the period of limitations under section 8, the following provisions govern.

A. A criminal conspiracy is deemed to continue until the criminal conduct that is its object is performed, or the agreement that it be performed is frustrated or is abandoned by the actor and by those with whom the actor conspired. For purposes of this subsection, the object of the criminal conspiracy includes escape from the scene of the crime, distribution of the fruits of the crime, and measures, other than silence, for concealing the commission of the crime or the identity of its perpetrators. [PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

B. If a person abandons the agreement, the criminal conspiracy terminates as to the actor only when:

(1) The actor informs a law enforcement officer of the existence of the criminal conspiracy and of the actor's participation therein; or

(2) The actor advises those with whom the actor conspired of the actor's abandonment. Abandonment is an affirmative defense. [PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

7. It is not a defense to prosecution under this section that another person with whom the actor is alleged to have conspired has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense, is not subject to prosecution as a result of immaturity, or is immune from or otherwise not subject to prosecution.

[PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

8. It is a defense to prosecution under this section that, had the objective of the criminal conspiracy been achieved, the actor would have been immune from liability under the law defining the offense, or as an accomplice under section 57.

[PL 2001, c. 383, §5 (AMD); PL 2001, c. 383, §156 (AFF).]

9.

[PL 2001, c. 383, §5 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §35 (AMD). PL 1977, c. 510, §§29-31 (AMD). PL 2001, c. 383, §5 (AMD). PL 2001, c. 383, §156 (AFF).

§152. Criminal attempt

1. A person is guilty of criminal attempt if, acting with the kind of culpability required for the commission of the crime, and with the intent to complete the commission of the crime, the person engages in conduct that in fact constitutes a substantial step toward its commission and the crime is:

A. Murder. Violation of this paragraph is a Class A crime; [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

B. A Class A crime. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

C. A Class B crime. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

D. A Class C crime. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

E. A Class D crime or Class E crime. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

A substantial step is any conduct that goes beyond mere preparation and is strongly corroborative of the firmness of the actor's intent to complete the commission of the crime.

[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

2. It is not a defense to a prosecution under this section that it was impossible to commit the crime that the person attempted, provided that it would have been committed had the factual and legal attendant circumstances specified in the definition of the crime been as the person believed them to be.

[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

3. A person who engages in conduct intending to aid another to commit a crime is guilty of criminal attempt if the conduct would establish the person's complicity under section 57 were the crime committed by the other person, even if the other person is not guilty of committing or attempting the crime.

[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

3-A. An indictment, information or complaint, or count thereof, charging the commission of a crime under chapters 9 through 45, or a crime outside this code is deemed to charge the commission of the attempt to commit that crime and may not be deemed duplicitous thereby.
[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2001, c. 667, Pt. D, §1 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

5.

[PL 2001, c. 667, Pt. D, §2 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §36 (AMD). PL 1977, c. 510, §§32-34 (AMD). PL 1995, c. 422, §1 (AMD). PL 2001, c. 383, §6 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 413, §1 (AMD). PL 2001, c. 667, §§D1,2 (AMD). PL 2001, c. 667, §D36 (AFF).

§152-A. Aggravated attempted murder

1. A person is guilty of aggravated attempted murder if that person commits attempted murder and, at the time of that person's actions, one or more of the following aggravating circumstances is in fact present:

A. The person's intent to kill was accompanied by premeditation-in-fact; [PL 2001, c. 413, §2 (NEW).]

B. The person, at the time of the crime, intended to cause multiple deaths; [PL 2001, c. 413, §2 (NEW).]

C. The person was previously convicted in this State or another jurisdiction of criminal homicide or any other crime involving the use of deadly force against a person; [PL 2007, c. 476, §2 (AMD).]

D. The attempted murder was accompanied by torture, sexual assault or other extreme cruelty inflicted upon the victim; [PL 2001, c. 413, §2 (NEW).]

E. The attempted murder was committed in a penal institution by an inmate of that institution against another inmate or against prison personnel; [PL 2001, c. 413, §2 (NEW).]

F. The attempted murder was committed against a law enforcement officer while the officer was acting in performance of that officer's duties; or [PL 2001, c. 413, §2 (NEW).]

G. The attempted murder was committed against a hostage. [PL 2001, c. 413, §2 (NEW).]
[PL 2007, c. 476, §2 (AMD).]

2. Aggravated attempted murder is a Class A crime except that, notwithstanding section 1604, subsection 1, paragraph A, the sentence for aggravated attempted murder is imprisonment for life or a definite period of imprisonment for any term of years. The existence of an aggravating circumstance serves only as a precondition for the court to consider a life sentence.
[PL 2019, c. 113, Pt. C, §58 (AMD).]

3. It is an affirmative defense to prosecution under subsection 1 that the person's conduct was expressly authorized by Title 22, chapter 418.
[PL 2019, c. 271, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 413, §2 (NEW). PL 2007, c. 476, §2 (AMD). PL 2019, c. 113, Pt. C, §58 (AMD). PL 2019, c. 271, §1 (AMD).

§153. Criminal solicitation

1. A person is guilty of criminal solicitation if the person, with the intent to cause the commission of the crime, and under circumstances that the person believes make it probable that the crime will take place, commands or attempts to induce another person, whether as principal or accomplice, to:

A. Commit murder. Violation of this paragraph is a Class A crime; [PL 2001, c. 383, §7 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Commit a Class A crime. Violation of this paragraph is a Class B crime; or [PL 2001, c. 383, §7 (NEW); PL 2001, c. 383, §156 (AFF).]

C. Commit a Class B crime. Violation of this paragraph is a Class C crime. [PL 2001, c. 383, §7 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §7 (AMD); PL 2001, c. 383, §156 (AFF).]

2. It is a defense to prosecution under this section that, if the criminal object were achieved, the person would not be guilty of a crime under the law defining the crime or as an accomplice under section 57.

[PL 2001, c. 383, §7 (AMD); PL 2001, c. 383, §156 (AFF).]

3. It is not a defense to a prosecution under this section that the person solicited could not be guilty of the crime because of lack of responsibility or culpability, immaturity, or other incapacity or defense.

[PL 2001, c. 383, §7 (AMD); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2001, c. 383, §7 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §§35-37 (AMD). PL 2001, c. 383, §7 (AMD). PL 2001, c. 383, §156 (AFF).

§154. General provisions regarding chapter 7

1. It shall not be a crime to conspire to commit, or to attempt, or solicit, any crime set forth in this chapter.

[PL 1975, c. 499, §1 (NEW).]

2. There is an affirmative defense of renunciation in the following circumstances.

A. In a prosecution for attempt under section 152, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant avoided the commission of the crime attempted by abandoning his criminal effort and, if mere abandonment was insufficient to accomplish such avoidance, by taking further and affirmative steps which prevented the commission thereof. [PL 1975, c. 499, §1 (NEW).]

B. In a prosecution for solicitation under section 153, or for conspiracy under section 151, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited or of the crime contemplated by the conspiracy, as the case may be. [PL 1975, c. 499, §1 (NEW).]

C. A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by: A belief that a circumstance exists which increases the probability of detection or apprehension of the defendant or another participant in the criminal operation, or which makes more difficult the consummation of the crime; or a decision to postpone the criminal conduct until another time or to substitute another victim or another but similar objective. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

CHAPTER 9

OFFENSES AGAINST THE PERSON

§201. Murder

1. A person is guilty of murder if the person:

A. Intentionally or knowingly causes the death of another human being; [PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Engages in conduct that manifests a depraved indifference to the value of human life and that in fact causes the death of another human being; or [PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Intentionally or knowingly causes another human being to commit suicide by the use of force, duress or deception. [PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

1-A. For purposes of subsection 1, paragraph B, when the crime of depraved indifference murder is charged, the crime of criminally negligent manslaughter is deemed to be charged.
[PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

2. The sentence for murder is as authorized in chapter 63.
[PL 2019, c. 113, Pt. B, §9 (AMD).]

3. It is an affirmative defense to a prosecution under subsection 1, paragraph A, that the person causes the death while under the influence of extreme anger or extreme fear brought about by adequate provocation.
[PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

4. For purposes of subsection 3, provocation is adequate if:

A. It is not induced by the person; and [PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

B. It is reasonable for the person to react to the provocation with extreme anger or extreme fear, provided that evidence demonstrating only that the person has a tendency towards extreme anger or extreme fear is not sufficient, in and of itself, to establish the reasonableness of the person's reaction. [PL 2001, c. 383, §8 (AMD); PL 2001, c. 383, §156 (AFF).]

For purposes of determining whether extreme anger or extreme fear was brought about by adequate provocation, the provocation was not adequate if it resulted solely from the discovery of, knowledge about or potential disclosure of the victim's actual or perceived gender, gender identity, gender expression or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance toward the person or in which the person and victim dated or had a romantic or sexual relationship.
[PL 2019, c. 462, §3 (AMD).]

5. Nothing contained in subsection 3 may constitute a defense to a prosecution for, or preclude conviction of, manslaughter or any other crime.
[PL 1983, c. 372, §1 (NEW).]

6. It is an affirmative defense to prosecution under subsection 1 that the person's conduct was expressly authorized by Title 22, chapter 418.
[PL 2019, c. 271, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§37-39 (AMD). PL 1977, c. 510, §38 (RPR). PL 1983, c. 372, §1 (AMD). PL 1983, c. 450, §2 (AMD). PL 1985, c. 416 (AMD). PL 2001, c. 383, §8 (AMD). PL 2001, c. 383, §156 (AFF). PL 2019, c. 113, Pt. B, §9 (AMD). PL 2019, c. 271, §2 (AMD). PL 2019, c. 462, §3 (AMD).

§202. Felony murder

1. A person is guilty of felony murder if acting alone or with one or more other persons in the commission of, or an attempt to commit, or immediate flight after committing or attempting to commit, murder, robbery, burglary, kidnapping, arson, gross sexual assault, or escape, the person or another participant in fact causes the death of a human being, and the death is a reasonably foreseeable consequence of such commission, attempt or flight.
[PL 1991, c. 377, §8 (AMD).]

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

A. Did not commit the homicidal act or in any way solicit, command, induce, procure or aid the commission thereof; [PL 1977, c. 510, §39 (RPR).]

B. Was not armed with a dangerous weapon, or other weapon which under circumstances indicated a readiness to inflict serious bodily injury; [PL 1977, c. 510, §39 (RPR).]

C. Reasonably believed that no other participant was armed with such a weapon; and [PL 1977, c. 510, §39 (RPR).]

D. Reasonably believed that no other participant intended to engage in conduct likely to result in death or serious bodily injury. [PL 1977, c. 510, §39 (RPR).]
[PL 1977, c. 510, §39 (RPR).]

3. Felony murder is a Class A crime.
[PL 1977, c. 510, §39 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §40 (AMD). PL 1977, c. 510, §39 (RPR). PL 1979, c. 701, §20 (AMD). PL 1991, c. 377, §8 (AMD).

§203. Manslaughter

1. A person is guilty of manslaughter if that person:

A. Recklessly, or with criminal negligence, causes the death of another human being. Violation of this paragraph is a Class A crime; [PL 2001, c. 383, §9 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Intentionally or knowingly causes the death of another human being under circumstances that do not constitute murder because the person causes the death while under the influence of extreme anger or extreme fear brought about by adequate provocation. Adequate provocation has the same meaning as in section 201, subsection 4. The fact that the person causes the death while under the influence of extreme anger or extreme fear brought about by adequate provocation constitutes a mitigating circumstance reducing murder to manslaughter and need not be proved in any prosecution initiated under this subsection. Violation of this paragraph is a Class A crime; or [PL 2001, c. 383, §9 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Has direct and personal management or control of any employment, place of employment or other employee, and intentionally or knowingly violates any occupational safety or health standard of this State or the Federal Government, and that violation in fact causes the death of an employee

and that death is a reasonably foreseeable consequence of the violation. This paragraph does not apply to:

(1) Any person who performs a public function either on a volunteer basis or for minimal compensation for services rendered; or

(2) Any public employee responding to or acting at a life-threatening situation who is forced to make and does make a judgment reasonably calculated to save the life of a human being.

Violation of this paragraph is a Class C crime. [PL 2001, c. 383, §9 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §9 (AMD); PL 2001, c. 383, §156 (AFF).]

2.

[PL 1983, c. 480, Pt. B, §23 (RP).]

3.

[PL 2001, c. 383, §9 (RP); PL 2001, c. 383, §156 (AFF).]

3-A.

[PL 1989, c. 872, §2 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §40 (RPR). PL 1983, c. 217 (AMD). PL 1983, c. 372, §2 (AMD). PL 1983, c. 480, §B23 (AMD). PL 1987, c. 678, §1 (AMD). PL 1989, c. 505, §§1,2 (AMD). PL 1989, c. 872, §§1,2 (AMD). PL 1989, c. 873 (AMD). PL 1997, c. 34, §1 (AMD). PL 2001, c. 383, §9 (AMD). PL 2001, c. 383, §156 (AFF).

§204. Aiding or soliciting suicide

1. A person is guilty of aiding or soliciting suicide if he intentionally aids or solicits another to commit suicide, and the other commits or attempts suicide.

[PL 1977, c. 510, §41 (RPR).]

2. Aiding or soliciting suicide is a Class D crime.

[PL 1977, c. 510, §41 (RPR).]

3. It is an affirmative defense to prosecution under subsection 1 that the person's conduct was expressly authorized by Title 22, chapter 418.

[PL 2019, c. 271, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §41 (AMD). PL 1977, c. 510, §41 (RPR). PL 2019, c. 271, §3 (AMD).

§205. Criminal homicide in the 5th degree

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §42 (RP).

§206. Criminal homicide in the 6th degree

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §42 (AMD). PL 1977, c. 510, §43 (RP).

§207. Assault

1. A person is guilty of assault if:

A. The person intentionally, knowingly or recklessly causes bodily injury or offensive physical contact to another person. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §10 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person has attained at least 18 years of age and intentionally, knowingly or recklessly causes bodily injury to another person who is less than 6 years of age. Violation of this paragraph is a Class C crime. [PL 2001, c. 383, §10 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §10 (RPR); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §10 (RP); PL 2001, c. 383, §156 (AFF).]

3. For a violation under subsection 1, the court shall impose a sentencing alternative that involves a fine of not less than $300, which may not be suspended except as provided in subsection 4.
[PL 2019, c. 113, Pt. B, §10 (AMD).]

4. Finding by court necessary to impose other than minimum fine. In the case of an individual, the court may suspend all or a portion of a minimum fine under subsection 3 or impose a lesser fine other than the mandatory fine if the court finds by a preponderance of the evidence that there are exceptional circumstances that justify imposition of a lesser financial penalty. In making a finding of exceptional circumstances, the court may consider:

A. Reliable evidence of financial hardship on the part of the individual and the individual's family and dependents; [PL 2019, c. 113, Pt. B, §11 (NEW).]

B. Reliable evidence of special needs of the individual or the individual's family and dependents; [PL 2019, c. 113, Pt. B, §11 (NEW).]

C. Reliable evidence of the individual's income and future earning capacity and the individual's assets and financial resources from whatever source; [PL 2019, c. 113, Pt. B, §11 (NEW).]

D. Reliable evidence regarding any pecuniary gain derived from the commission of the offense; and [PL 2019, c. 113, Pt. B, §11 (NEW).]

E. The impact of imposition of the mandatory fine on the individual's reasonable ability to pay restitution under chapter 69. [PL 2019, c. 113, Pt. B, §11 (NEW).]

[PL 2019, c. 113, Pt. B, §11 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1985, c. 495, §4 (AMD). PL 2001, c. 383, §10 (RPR). PL 2001, c. 383, §156 (AFF). PL 2005, c. 12, §JJ1 (AMD). PL 2019, c. 113, Pt. B, §§10, 11 (AMD).

§207-A. Domestic violence assault

1. A person is guilty of domestic violence assault if:

A. The person violates section 207 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or [PL 2007, c. 436, §1 (NEW); PL 2007, c. 436, §7 (AFF).]

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 208-D, 208-E, 208-F, 209-A, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 208-D, 208-E, 208-F, 209-A, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime. [PL 2019, c. 412, §1 (AMD).]
[PL 2019, c. 412, §1 (AMD).]

2. Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2007, c. 436, §1 (NEW); PL 2007, c. 436, §7 (AFF).]

SECTION HISTORY

PL 2007, c. 436, §1 (NEW). PL 2007, c. 436, §7 (AFF). PL 2011, c. 640, Pt. B, §1 (AMD). PL 2017, c. 432, Pt. D, §1 (AMD). PL 2019, c. 412, §1 (AMD).

§208. Aggravated assault

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

A. 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; [PL 2015, c. 358, §1 (AMD).]

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; [PL 2015, c. 358, §1 (NEW).]

B. Bodily injury to another with use of a dangerous weapon. Violation of this paragraph is a Class B crime; or [PL 2015, c. 358, §1 (AMD).]

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 impeding the breathing or circulation of the blood of another person by intentionally, knowingly or recklessly applying pressure on the person's throat or neck. Violation of this paragraph is a Class B crime. [PL 2019, c. 91, §1 (AMD).]
[PL 2019, c. 91, §1 (AMD).]

2.
[PL 2015, c. 358, §1 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §43 (AMD). PL 1977, c. 510, §44 (AMD). PL 1981, c. 317, §6 (AMD). PL 2011, c. 640, Pt. B, §2 (AMD). PL 2015, c. 358, §1 (AMD). PL 2019, c. 91, §1 (AMD).

§208-A. Assault while hunting

1. A person is guilty of assault while hunting if, while in the pursuit of wild game or game birds, he, with criminal negligence, causes bodily injury to another with the use of a dangerous weapon. [PL 1977, c. 671, §22 (NEW).]

2. Assault while hunting is a Class D crime. [PL 1977, c. 671, §22 (NEW).]

SECTION HISTORY

PL 1977, c. 671, §22 (NEW).

§208-B. Elevated aggravated assault

1. A person is guilty of elevated aggravated assault if that person:

A. Intentionally or knowingly causes serious bodily injury to another person with the use of a dangerous weapon; [PL 2001, c. 634, §3 (AMD).]

B. Engages in conduct that manifests a depraved indifference to the value of human life and that in fact causes serious bodily injury to another person with the use of a dangerous weapon; or [PL 2001, c. 634, §3 (AMD).]

C. With terroristic intent engages in conduct that in fact causes serious bodily injury to another person. [PL 2001, c. 634, §3 (NEW).]
[PL 2001, c. 634, §3 (AMD).]

2. Elevated aggravated assault is a Class A crime. [PL 1997, c. 461, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 461, §1 (NEW). PL 2001, c. 634, §3 (AMD).

§208-C. Elevated aggravated assault on pregnant person

1. A person is guilty of elevated aggravated assault on a pregnant person if that person intentionally or knowingly causes serious bodily injury to a person the person knows or has reason to know is pregnant. For the purposes of this subsection, "serious bodily injury" includes bodily injury that results in the termination of a pregnancy. This subsection does not apply to acts committed by:

A. Any person relating to an abortion for which the consent of the pregnant person, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law; or [PL 2005, c. 408, §1 (NEW).]

B. Any person for any medical treatment of the pregnant person or the fetus. [PL 2005, c. 408, §1 (NEW).]
[PL 2005, c. 408, §1 (NEW).]

2. Elevated aggravated assault on a pregnant person is a Class A crime. [PL 2005, c. 408, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 408, §1 (NEW).

§208-D. Domestic violence aggravated assault

1. A person is guilty of domestic violence aggravated assault if that person:

A. Violates section 208, subsection 1, paragraph A and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class B crime; [PL 2019, c. 412, §2 (NEW).]

B. Violates section 208, subsection 1, paragraph A-1 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class A crime; [PL 2019, c. 412, §2 (NEW).]

C. Violates section 208, subsection 1, paragraph B and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class B crime; or [PL 2019, c. 412, §2 (NEW).]

D. Violates section 208, subsection 1, paragraph C and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class B crime. [PL 2019, c. 412, §2 (NEW).]

[PL 2019, c. 412, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 412, §2 (NEW).

§208-E. Domestic violence elevated aggravated assault

1. A person is guilty of domestic violence elevated aggravated assault if:

A. The person violates section 208-B; and [PL 2019, c. 412, §2 (NEW).]

B. The victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. [PL 2019, c. 412, §2 (NEW).]

[PL 2019, c. 412, §2 (NEW).]

2. Violation of this section is a Class A crime.

[PL 2019, c. 412, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 412, §2 (NEW).

§208-F. Domestic violence elevated aggravated assault on pregnant person

1. A person is guilty of domestic violence elevated aggravated assault on a pregnant person if:

A. The person violates section 208-C; and [PL 2019, c. 412, §2 (NEW).]

B. The victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. [PL 2019, c. 412, §2 (NEW).]

[PL 2019, c. 412, §2 (NEW).]

2. Violation of this section is a Class A crime.

[PL 2019, c. 412, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 412, §2 (NEW).

§209. Criminal threatening

1. A person is guilty of criminal threatening if he intentionally or knowingly places another person in fear of imminent bodily injury.

[PL 1975, c. 499, §1 (NEW).]

2. Criminal threatening is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§209-A. Domestic violence criminal threatening

1. A person is guilty of domestic violence criminal threatening if:

A. The person violates section 209 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or [PL 2007, c. 436, §2 (NEW); PL 2007, c. 436, §7 (AFF).]

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 210-B, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime. [PL 2019, c. 412, §3 (AMD).]
[PL 2019, c. 412, §3 (AMD).]

2. Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2007, c. 436, §2 (NEW); PL 2007, c. 436, §7 (AFF).]

SECTION HISTORY

PL 2007, c. 436, §2 (NEW). PL 2007, c. 436, §7 (AFF). PL 2011, c. 640, Pt. B, §3 (AMD). PL 2017, c. 432, Pt. D, §2 (AMD). PL 2019, c. 412, §3 (AMD).

§210. Terrorizing

1. A person is guilty of terrorizing if that person in fact communicates to any person a threat to commit or to cause to be committed a crime of violence dangerous to human life, against the person to whom the communication is made or another, and the natural and probable consequence of such a threat, whether or not such consequence in fact occurs, is:

A. To place the person to whom the threat is communicated or the person threatened in reasonable fear that the crime will be committed. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §11 (AMD); PL 2001, c. 383, §156 (AFF).]

B. To cause evacuation of a building, place of assembly or facility of public transport or to cause the occupants of a building to be moved to or required to remain in a designated secured area. Violation of this paragraph is a Class C crime. [PL 2001, c. 383, §11 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2003, c. 143, §4 (AMD).]

2.

[PL 2001, c. 383, §11 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §45 (AMD). PL 1977, c. 671, §§23,24 (AMD). PL 1999, c. 433, §1 (AMD). PL 2001, c. 383, §11 (AMD). PL 2001, c. 383, §156 (AFF). PL 2003, c. 143, §4 (AMD).

§210-A. Stalking

1. A person is guilty of stalking if:

A. The actor intentionally or knowingly engages in a course of conduct directed at or concerning a specific person that would cause a reasonable person:

(1) To suffer serious inconvenience or emotional distress;

(2) To fear bodily injury or to fear bodily injury to a close relation;

(3) To fear death or to fear the death of a close relation;

(4) To fear damage or destruction to or tampering with property; or

(5) To fear injury to or the death of an animal owned by or in the possession and control of that specific person.

Violation of this paragraph is a Class D crime; [PL 2015, c. 357, §1 (AMD).]

B. [PL 2001, c. 383, §12 (RP); PL 2001, c. 383, §156 (AFF).]

C. The actor violates paragraph A and has one or more prior convictions in this State or another jurisdiction. Notwithstanding section 2, subsection 3-B, as used in this paragraph, "another jurisdiction" also includes any Indian tribe.

Violation of this paragraph is a Class C crime. In determining the sentence for a violation of this paragraph the court shall impose a sentencing alternative pursuant to section 1502, subsection 2 that includes a term of imprisonment. In determining the basic term of imprisonment as the first step in the sentencing process, the court shall select a term of at least one year.

For the purposes of this paragraph, "prior conviction" means a conviction for a violation of this section; Title 5, section 4659; Title 15, section 321; former Title 19, section 769; Title 19-A, section 4011; Title 22, section 4036; any other temporary, emergency, interim or final protective order; an order of a tribal court of the Passamaquoddy Tribe or the Penobscot Nation; any similar order issued by any court of the United States or of any other state, territory, commonwealth or tribe; or a court-approved consent agreement. Section 9-A governs the use of prior convictions when determining a sentence; [PL 2019, c. 113, Pt. C, §59 (AMD).]

D. The actor violates paragraph A and the course of conduct is directed at or concerning 2 or more specific persons that are members of an identifiable group.

Violation of this paragraph is a Class C crime; or [PL 2015, c. 357, §3 (NEW).]

E. The actor violates paragraph C and at least one prior conviction was for a violation of paragraph D.

Violation of this paragraph is a Class B crime. In determining the sentence for a violation of this paragraph the court shall impose a sentencing alternative pursuant to section 1502, subsection 2 that includes a term of imprisonment. In determining the basic term of imprisonment as the first

step in the sentencing process, the court shall select a term of at least 2 years. [PL 2019, c. 113, Pt. C, §60 (AMD).]

[PL 2019, c. 113, Pt. C, §§59, 60 (AMD).]

2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Course of conduct" means 2 or more acts, including but not limited to acts in which the actor, by any action, method, device or means, directly or indirectly follows, monitors, tracks, observes, surveils, threatens, harasses or communicates to or about a person or interferes with a person's property. "Course of conduct" also includes, but is not limited to, threats implied by conduct and gaining unauthorized access to personal, medical, financial or other identifying or confidential information. [PL 2007, c. 685, §1 (AMD).]

B. "Close relation" means a current or former spouse or domestic partner, parent, child, sibling, stepchild, stepparent, grandparent, any person who regularly resides in the household or who within the prior 6 months regularly resided in the household or any person with a significant personal or professional relationship. [PL 2007, c. 685, §1 (AMD).]

C. [PL 2007, c. 685, §1 (RP).]

D. "Emotional distress" means mental or emotional suffering of the person being stalked as evidenced by anxiety, fear, torment or apprehension that may or may not result in a physical manifestation of emotional distress or a mental health diagnosis. [PL 2007, c. 685, §1 (NEW).]

E. "Serious inconvenience" means that a person significantly modifies that person's actions or routines in an attempt to avoid the actor or because of the actor's course of conduct. "Serious inconvenience" includes, but is not limited to, changing a phone number, changing an electronic mail address, moving from an established residence, changing daily routines, changing routes to and from work, changing employment or work schedule or losing time from work or a job. [PL 2007, c. 685, §1 (NEW).]

[PL 2007, c. 685, §1 (AMD).]

3.

[PL 2001, c. 383, §13 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1995, c. 668, §3 (NEW). PL 1999, c. 510, §4 (AMD). PL 2001, c. 383, §§12,13 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 411, §1 (AMD). PL 2001, c. 471, §B9 (AMD). PL 2001, c. 471, §B10 (AFF). PL 2001, c. 667, §§D35,36 (AFF). PL 2007, c. 685, §1 (AMD). PL 2009, c. 336, §11 (AMD). PL 2015, c. 357, §§1-3 (AMD). PL 2015, c. 470, §§11, 12 (AMD). PL 2019, c. 113, Pt. C, §§59, 60 (AMD).

§210-B. Domestic violence terrorizing

1. A person is guilty of domestic violence terrorizing if:

A. The person violates section 210 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or [PL 2007, c. 436, §3 (NEW); PL 2007, c. 436, §7 (AFF).]

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-C or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime. [PL 2019, c. 412, §4 (AMD).]
[PL 2019, c. 412, §4 (AMD).]

2. Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2007, c. 436, §3 (NEW); PL 2007, c. 436, §7 (AFF).]

SECTION HISTORY

PL 2007, c. 436, §3 (NEW). PL 2007, c. 436, §7 (AFF). PL 2011, c. 640, Pt. B, §4 (AMD). PL 2017, c. 432, Pt. D, §3 (AMD). PL 2019, c. 412, §4 (AMD).

§210-C. Domestic violence stalking

1. A person is guilty of domestic violence stalking if:

A. The person violates section 210-A and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or [PL 2007, c. 436, §4 (NEW); PL 2007, c. 436, §7 (AFF).]

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 211-A or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 211-A in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime. [PL 2019, c. 412, §5 (AMD).]
[PL 2019, c. 412, §5 (AMD).]

2. Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2007, c. 436, §4 (NEW); PL 2007, c. 436, §7 (AFF).]

SECTION HISTORY

PL 2007, c. 436, §4 (NEW). PL 2007, c. 436, §7 (AFF). PL 2011, c. 640, Pt. B, §5 (AMD). PL 2017, c. 432, Pt. D, §4 (AMD). PL 2019, c. 412, §5 (AMD).

§211. Reckless conduct

1. A person is guilty of reckless conduct if he recklessly creates a substantial risk of serious bodily injury to another person.
[PL 1975, c. 499, §1 (NEW).]

2. Reckless conduct is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§211-A. Domestic violence reckless conduct

1. A person is guilty of domestic violence reckless conduct if:

A. The person violates section 211 and the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. Violation of this paragraph is a Class D crime; or [PL 2007, c. 436, §5 (NEW); PL 2007, c. 436, §7 (AFF).]

B. The person violates paragraph A and at the time of the offense:

(1) Has one or more prior convictions for violating paragraph A or for violating section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C or one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A or in section 207-A, 208-D, 208-E, 208-F, 209-A, 210-B or 210-C in another jurisdiction;

(2) Has one or more prior convictions for violating Title 19-A, section 4011, subsection 1 or one or more prior convictions for engaging in conduct substantially similar to that contained in Title 19-A, section 4011, subsection 1 in another jurisdiction;

(3) Has one or more prior convictions for violating Title 15, section 1092, subsection 1, paragraph B when the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) when the alleged victim in the case for which the defendant was on bail was a family or household member as defined in Title 19-A, section 4002, subsection 4; or

(4) Has one or more prior convictions for violating section 208, 208-B or 208-C, and the State had pled and proved that the victim of the applicable prior conviction was a family or household member, as defined in Title 19-A, section 4002, subsection 4, or has one or more prior convictions in another jurisdiction for engaging in conduct substantially similar to that contained in section 208, 208-B or 208-C and it had been pled and proved that the victim was a family or household member.

Violation of this paragraph is a Class C crime. [PL 2019, c. 412, §6 (AMD).]
[PL 2019, c. 412, §6 (AMD).]

2. Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2007, c. 436, §5 (NEW); PL 2007, c. 436, §7 (AFF).]

SECTION HISTORY

PL 2007, c. 436, §5 (NEW). PL 2007, c. 436, §7 (AFF). PL 2011, c. 640, Pt. B, §6 (AMD). PL 2017, c. 432, Pt. D, §5 (AMD). PL 2019, c. 412, §6 (AMD).

§212. Classification of offenses against the person

(REPEALED)

SECTION HISTORY

PL 1991, c. 866, §1 (NEW). PL 1995, c. 650, §9 (AMD). PL 1995, c. 694, §D23 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 460, §1 (RP).

§213. Aggravated reckless conduct

1. A person is guilty of aggravated reckless conduct if the person with terroristic intent engages in conduct that in fact creates a substantial risk of serious bodily injury to another person.
[PL 2001, c. 634, §4 (NEW).]

2. Aggravated reckless conduct is a Class B crime.
[PL 2001, c. 634, §4 (NEW).]

SECTION HISTORY

PL 2001, c. 634, §4 (NEW).

CHAPTER 11

SEXUAL ASSAULTS

§251. Definitions and general provisions

1. In this chapter the following definitions apply.

A. "Spouse" means a person legally married to the actor, but does not include a legally married person living apart from the actor under a defacto separation. [PL 1975, c. 499, §1 (NEW).]

B. [PL 1989, c. 401, Pt. A, §2 (RP).]

C. "Sexual act" means:

(1) Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other;

(2) Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or

(3) Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

A sexual act may be proved without allegation or proof of penetration. [PL 1985, c. 495, §5 (RPR).]

D. "Sexual contact" means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact. [PL 1985, c. 495, §6 (AMD).]

E. "Compulsion" means the use of physical force, a threat to use physical force or a combination thereof that makes a person unable to physically repel the actor or produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or another human being.

"Compulsion" as defined in this paragraph places no duty upon the victim to resist the actor. [PL 1991, c. 457 (AMD).]

F. "Safe children zone" means on or within 1,000 feet of the real property comprising a public or private elementary or secondary school or on or within 1,000 feet of the real property comprising a day care center licensed pursuant to Title 22, section 8301-A. [PL 1997, c. 768, §1 (NEW).]

G. "Sexual touching" means any touching of the breasts, buttocks, groin or inner thigh, directly or through clothing, for the purpose of arousing or gratifying sexual desire. [PL 2003, c. 138, §1 (NEW).]

[PL 2003, c. 138, §1 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §44 (AMD). PL 1981, c. 252, §1 (AMD). PL 1985, c. 495, §§5,6 (AMD). PL 1989, c. 401, §A2 (AMD). PL 1991, c. 457 (AMD). PL 1997, c. 768, §1 (AMD). PL 2003, c. 138, §1 (AMD).

§252. Rape

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§45-47 (AMD). PL 1981, c. 252, §2 (AMD). PL 1985, c. 247, §1 (AMD). PL 1985, c. 414, §1 (AMD). PL 1987, c. 255, §1 (AMD). PL 1989, c. 401, §A3 (RP).

§253. Gross sexual assault

1. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E. Violation of this paragraph is a Class A crime; [PL 2003, c. 711, Pt. B, §2 (AMD).]

B. The other person, not the actor's spouse, has not in fact attained the age of 14 years. Violation of this paragraph is a Class A crime; or [PL 2003, c. 711, Pt. B, §2 (AMD).]

C. The other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime. [PL 2003, c. 711, Pt. B, §2 (NEW).]

[PL 2003, c. 711, Pt. B, §2 (AMD).]

2. A person is guilty of gross sexual assault if that person engages in a sexual act with another person and:

A. The actor has substantially impaired the other person's power to appraise or control the other person's sexual acts by furnishing, as defined in section 1101, subsection 18, paragraph A, administering or employing drugs, intoxicants or other similar means. Violation of this paragraph is a Class B crime; [PL 2007, c. 474, §1 (AMD).]

B. The actor compels or induces the other person to engage in the sexual act by any threat. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §15 (AMD); PL 2001, c. 383, §156 (AFF).]

C. The other person suffers from mental disability that is reasonably apparent or known to the actor, and which in fact renders the other person substantially incapable of appraising the nature of

the contact involved or of understanding that the person has the right to deny or withdraw consent. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §15 (AMD); PL 2001, c. 383, §156 (AFF).]

D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual act. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §15 (AMD); PL 2001, c. 383, §156 (AFF).]

E. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution, and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class B crime; [PL 2007, c. 102, §1 (AMD).]

F. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class C crime; [PL 2015, c. 509, §1 (AMD).]

G. The other person, not the actor's spouse, has not attained the age of 18 years and is a resident in or attending a children's home, child care facility, facility operated by a family child care provider, children's residential care facility, drug treatment center, youth camp licensed under Title 22, section 2495 or similar school, facility or institution regularly providing care or services for children, and the actor is a teacher, employee or other person having instructional, supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class C crime; [PL 2013, c. 179, §2 (AMD).]

H. The other person has not in fact attained the age of 18 years and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term care and welfare of that other person. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §16 (AMD); PL 2001, c. 383, §156 (AFF).]

I. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class C crime; [PL 2019, c. 494, §1 (AMD).]

J. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes the other person as a person with an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class C crime; [PL 2011, c. 542, Pt. A, §11 (AMD).]

K. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class C crime; [PL 2017, c. 300, §1 (AMD).]

L. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or

mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime; [PL 2019, c. 438, §1 (AMD).]

M. The other person has not expressly or impliedly acquiesced to the sexual act. Violation of this paragraph is a Class C crime; or [PL 2019, c. 438, §2 (AMD).]

N. The actor is a law enforcement officer acting in performance of official duties and the other person, not the actor's spouse, is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime. For the purposes of this paragraph, "law enforcement officer" has the same meaning as in Title 25, section 2801-A, subsection 5. Violation of this paragraph is a Class B crime. [PL 2019, c. 438, §3 (NEW).]

[PL 2019, c. 438, §§1-3 (AMD); PL 2019, c. 494, §1 (AMD).]

3.

[PL 2017, c. 300, §3 (RP).]

4.

[PL 2001, c. 383, §18 (RP); PL 2001, c. 383, §156 (AFF).]

5.

[PL 2001, c. 383, §19 (RP); PL 2001, c. 383, §156 (AFF).]

6.

[PL 2019, c. 113, Pt. B, §12 (RP).]

7.

[PL 2019, c. 113, Pt. B, §13 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§48,49 (AMD). PL 1979, c. 701, §21 (AMD). PL 1981, c. 252, §3 (AMD). PL 1983, c. 326, §§1-4 (AMD). PL 1985, c. 247, §2 (AMD). PL 1985, c. 414, §§2,3 (AMD). PL 1985, c. 495, §§7,8 (AMD). PL 1985, c. 544 (AMD). PL 1985, c. 737, §A41 (AMD). PL 1987, c. 255, §2 (AMD). PL 1989, c. 401, §A4 (RPR). PL 1991, c. 569 (AMD). PL 1993, c. 432, §1 (AMD). PL 1993, c. 687, §§1-3 (AMD). PL 1995, c. 429, §1 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 768, §2 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 383, §§14-20 (AMD). PL 2001, c. 383, §156 (AFF). RR 2003, c. 2, §25 (COR). PL 2003, c. 711, §B2 (AMD). PL 2007, c. 102, §1 (AMD). PL 2007, c. 474, §§1, 2 (AMD). PL 2009, c. 211, Pt. B, §15 (AMD). PL 2011, c. 423, §§1-3 (AMD). PL 2011, c. 464, §5 (AMD). PL 2011, c. 542, Pt. A, §11 (AMD). PL 2011, c. 691, Pt. A, §13 (AMD). PL 2013, c. 179, §2 (AMD). PL 2015, c. 509, §1 (AMD). PL 2017, c. 300, §§1-3 (AMD). PL 2019, c. 113, Pt. B, §§12, 13 (AMD). PL 2019, c. 438, §§1-3 (AMD). PL 2019, c. 494, §1 (AMD).

§253-A. Special sentencing provisions for gross sexual assault

1. Any term of years; nonmandatory sentence alternative. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court may impose a definite term of imprisonment for any term of years. The court also may impose as part of the sentence either a period of probation of any term of years pursuant to section 1804, subsection 4 or a period of supervised release of any term of years pursuant to section 1881, subsection 2, paragraph A.

As used in this subsection, "repeat sexual assault offender" means a person who commits a new gross sexual assault after having been convicted previously and sentenced for any of the following:

A. Gross sexual assault, formerly denominated as gross sexual misconduct; [PL 2019, c. 113, Pt. B, §14 (NEW).]

B. Rape; [PL 2019, c. 113, Pt. B, §14 (NEW).]

C. Attempted murder accompanied by sexual assault; [PL 2019, c. 113, Pt. B, §14 (NEW).]

D. Murder accompanied by sexual assault; or [PL 2019, c. 113, Pt. B, §14 (NEW).]

E. Conduct substantially similar to a crime listed in paragraphs A to D that is a crime under the laws of another jurisdiction. [PL 2019, c. 113, Pt. B, §14 (NEW).]

For purposes of determining whether a defendant is a repeat sexual assault offender, the date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

"Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved.
[PL 2019, c. 113, Pt. B, §14 (NEW).]

2. Any term of years; mandatory sentence alternative. If the State pleads and proves that a crime under section 253 was committed against an individual who had not yet attained 12 years of age, the court 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 specified in section 1602, subsection 1, paragraph A, the court shall select a definite 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 1881, subsection 1.
[PL 2019, c. 113, Pt. B, §14 (NEW).]

3. Aggravating sentencing factors. The court shall treat the following as an aggravating sentencing factor.

A. If the State pleads and proves that a Class A crime of gross sexual assault was committed by an individual who had previously been convicted and sentenced for a Class B or Class C crime of unlawful sexual contact, or an essentially similar crime in another jurisdiction, the court, in determining the appropriate sentence, shall treat as an aggravating sentencing factor that prior conviction. [PL 2019, c. 113, Pt. B, §14 (NEW).]

B. If the State pleads and proves that a violation of section 253, subsection 1 or 2 was committed in a safe children zone, the court, in determining the appropriate sentence, shall treat this as an aggravating sentencing factor. [PL 2019, c. 113, Pt. B, §14 (NEW).]

C. In using a sentencing alternative involving a term of imprisonment for an individual convicted of violating section 253, a court, in determining the maximum period of incarceration as the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B, shall treat each prior Maine conviction for a violation of section 253 as an aggravating sentencing factor.

(1) When the sentencing class for a prior conviction under section 253 is Class A, the court shall enhance the basic period of incarceration by a minimum of 4 years of imprisonment.

(2) When the sentencing class for a prior conviction under section 253 is Class B, the court shall enhance the basic period of incarceration by a minimum of 2 years of imprisonment.

(3) When the sentencing class for a prior conviction under section 253 is Class C, the court shall enhance the basic period of incarceration by a minimum of one year of imprisonment. [PL 2019, c. 113, Pt. B, §14 (NEW).]

D. In arriving at the final sentence as the 3rd step in the sentencing process specified in section 1602, subsection 1, paragraph C, the court may not suspend that portion of the maximum term of incarceration based on a prior conviction. [PL 2019, c. 113, Pt. B, §14 (NEW).]

[PL 2019, c. 113, Pt. B, §14 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. B, §14 (NEW).

§254. Sexual abuse of minors

1. A person is guilty of sexual abuse of a minor if:

A. The person engages in a sexual act with another person, not the actor's spouse, who is either 14 or 15 years of age and the actor is at least 5 years older than the other person. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §21 (AMD); PL 2001, c. 383, §156 (AFF).]

A-1. The person violates paragraph A and the actor knows that the other person is related to the actor within the 2nd degree of consanguinity. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §21 (NEW); PL 2001, c. 383, §156 (AFF).]

A-2. The person violates paragraph A and the actor is at least 10 years older than the other person. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §21 (NEW); PL 2001, c. 383, §156 (AFF).]

B. [PL 1989, c. 401, Pt. A, §5 (RP).]

C. The person is at least 21 years of age and engages in a sexual act with another person, not the actor's spouse, who is either 16 or 17 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §21 (AMD); PL 2001, c. 383, §156 (AFF).]

D. The person violates paragraph C and the actor knows that the student is related to the actor within the 2nd degree of consanguinity. Violation of this paragraph is a Class D crime; or [PL 2011, c. 464, §6 (AMD).]

E. The person violates paragraph C and the actor is at least 10 years older than the student. Violation of this paragraph is a Class D crime. [PL 2011, c. 464, §7 (AMD).]

F. [PL 2011, c. 464, §8 (RP).]

[PL 2011, c. 464, §§6-8 (AMD).]

2. It is a defense to a prosecution under subsection 1, paragraphs A, A-1, A-2 and F, that the actor reasonably believed the other person is at least 16 years of age.

[PL 2003, c. 138, §4 (AMD).]

3.

[PL 2001, c. 383, §21 (RP); PL 2001, c. 383, §156 (AFF).]

4. As used in this section, "related to the actor within the 2nd degree of consanguinity" has the meaning set forth in section 556.

[PL 2001, c. 383, §21 (NEW); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §50 (AMD). PL 1985, c. 495, §§9,10 (AMD). PL 1989, c. 401, §A5 (AMD). PL 1993, c. 451, §1 (AMD). PL 1995, c. 104, §§1-3 (AMD). PL 1997, c. 460, §§2,3 (AMD). PL 2001, c. 383, §21 (AMD). PL 2001, c. 383, §156 (AFF). PL 2003, c. 138, §§2-4 (AMD). PL 2011, c. 464, §§6-8 (AMD).

§254-A. Written notification not to pursue charges for sexual abuse of a minor

A prosecutor who elects not to commence a criminal proceeding for an alleged violation of section 254 shall, at the request of a parent, surrogate parent or guardian of the alleged victim, inform that person in writing of the reason for not commencing the proceeding. [PL 2005, c. 328, §14 (AMD).]

SECTION HISTORY

PL 1995, c. 308, §1 (NEW). PL 2005, c. 328, §14 (AMD).

§255. Unlawful sexual contact

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §51 (AMD). PL 1979, c. 701, §22 (AMD). PL 1983, c. 326, §§5-7 (AMD). PL 1985, c. 247, §3 (AMD). PL 1989, c. 401, §A6 (AMD). PL 1993, c. 451, §2 (AMD). PL 1993, c. 453, §§1-4 (AMD). PL 1993, c. 687, §§4-7 (AMD). PL 1993, c. 717, §1 (AMD). PL 1995, c. 104, §§4-7 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1997, c. 460, §4 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 383, §22 (RP). PL 2001, c. 383, §156 (AFF).

§255-A. Unlawful sexual contact

1. A person is guilty of unlawful sexual contact if the actor intentionally subjects another person to any sexual contact and:

A. The other person has not expressly or impliedly acquiesced in the sexual contact. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The other person has not expressly or impliedly acquiesced in the sexual contact and the sexual contact includes penetration. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

C. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual contact. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

D. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual contact and the sexual contact includes penetration. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

E. The other person, not the actor's spouse, is in fact less than 14 years of age and the actor is at least 3 years older. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

E-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older. Violation of this paragraph is a Class B crime; [PL 2003, c. 711, Pt. B, §3 (NEW).]

F. The other person, not the actor's spouse, is in fact less than 14 years of age and the actor is at least 3 years older and the sexual contact includes penetration. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

F-1. The other person, not the actor's spouse, is in fact less than 12 years of age and the actor is at least 3 years older and the sexual contact includes penetration. Violation of this paragraph is a Class A crime; [PL 2003, c. 711, Pt. B, §3 (NEW).]

F-2. The other person, not the actor's spouse, is in fact either 14 or 15 years of age and the actor is at least 10 years older than the other person. Violation of this paragraph is a Class D crime; [PL 2011, c. 464, §9 (NEW).]

G. The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the other person has the right to deny or withdraw consent. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

H. The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the contact involved or of understanding that the other person has the right to deny or withdraw consent and the sexual contact includes penetration. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

I. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class D crime; [PL 2007, c. 102, §2 (AMD).]

J. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person and the sexual contact includes penetration. Violation of this paragraph is a Class C crime; [PL 2007, c. 102, §3 (AMD).]

K. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class D crime; [PL 2015, c. 509, §2 (AMD).]

L. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student and the sexual contact includes penetration. Violation of this paragraph is a Class C crime; [PL 2015, c. 509, §2 (AMD).]

M. The other person is in fact less than 18 years of age and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

N. The other person is in fact less than 18 years of age and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person and the sexual contact includes penetration. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

O. The other person submits as a result of compulsion. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

P. The other person submits as a result of compulsion and the sexual contact includes penetration. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §23 (NEW); PL 2001, c. 383, §156 (AFF).]

Q. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class D crime; [PL 2011, c. 542, Pt. A, §12 (AMD).]

R. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with an intellectual disability or autism and the sexual contact includes penetration. It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class C crime; [PL 2011, c. 542, Pt. A, §12 (AMD).]

R-1. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class D crime; [PL 2011, c. 423, §4 (NEW).]

R-2. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor and the sexual contact includes penetration. Violation of this paragraph is a Class C crime; [PL 2011, c. 423, §4 (NEW).]

S. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; [PL 2005, c. 450, §1 (AMD).]

T. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled and the sexual contact includes penetration. Violation of this paragraph is a Class D crime; [PL 2005, c. 450, §1 (AMD).]

U. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class D crime; [PL 2019, c. 494, §2 (AMD).]

V. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current

patient or client of the actor and the sexual contact includes penetration. Violation of this paragraph is a Class C crime; [PL 2019, c. 494, §3 (AMD).]

W. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class D crime; or [PL 2011, c. 423, §6 (NEW).]

X. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect and the sexual contact includes penetration. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime. [PL 2011, c. 423, §6 (NEW).]

[PL 2019, c. 494, §§2, 3 (AMD).]

SECTION HISTORY

PL 2001, c. 354, §3 (AMD). PL 2001, c. 383, §23 (NEW). PL 2001, c. 383, §156 (AFF). RR 2003, c. 2, §26 (COR). PL 2003, c. 711, §B3 (AMD). PL 2005, c. 450, §§1,2 (AMD). PL 2007, c. 102, §§2, 3 (AMD). PL 2011, c. 423, §§4-6 (AMD). PL 2011, c. 464, §§9-11 (AMD). PL 2011, c. 542, Pt. A, §12 (AMD). PL 2011, c. 691, Pt. A, §§14, 15 (AMD). PL 2015, c. 509, §2 (AMD). PL 2019, c. 494, §§2, 3 (AMD).

§256. Visual sexual aggression against child

1. A person is guilty of visual sexual aggression against a child if:

A. For the purpose of arousing or gratifying sexual desire or for the purpose of causing affront or alarm, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 14 years of age. Violation of this paragraph is a Class D crime; [PL 2005, c. 655, §1 (AMD).]

B. For the purpose of arousing or gratifying sexual desire, the actor, having in fact attained 18 years of age, exposes the actor's genitals to another person or causes the other person to expose that person's genitals to the actor and the other person, not the actor's spouse, has not in fact attained 12 years of age. Violation of this paragraph is a Class C crime; [PL 2005, c. 655, §1 (AMD).]

C. For the purpose of arousing or gratifying sexual desire, the actor, having in fact attained 18 years of age, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person, not the actor's spouse and not having in fact attained 14 years of age, under circumstances in which a reasonable person would expect to be safe from such visual surveillance. Violation of this paragraph is a Class D crime; or [PL 2007, c. 688, §1 (AMD).]

D. For the purpose of arousing or gratifying sexual desire, the actor, having in fact attained 18 years of age, intentionally engages in visual surveillance, aided or unaided by mechanical or electronic equipment, of the uncovered breasts, buttocks, genitals, anus or pubic area of another person, not the actor's spouse and not having in fact attained 12 years of age, under circumstances in which a reasonable person would expect to be safe from such visual surveillance. Violation of this paragraph is a Class C crime. [PL 2007, c. 688, §1 (AMD).]

[PL 2007, c. 688, §1 (AMD).]

2.

[PL 2003, c. 711, Pt. B, §4 (RP).]

SECTION HISTORY

PL 1995, c. 72, §1 (NEW). PL 2003, c. 711, §B4 (RPR). PL 2005, c. 655, §1 (AMD). PL 2007, c. 688, §1 (AMD).

§257. Factors aiding in predicting high-risk sex offenders for sentencing purposes

1. In assessing for sentencing purposes the risk of repeat offenses by a person convicted of a crime under chapter 11, a court shall treat each of the following factors, if present, as increasing that risk:

A. The victim of the crime is prepubescent; [PL 1995, c. 429, §2 (NEW).]

B. The victim of the crime is the same gender as the offender; [PL 1995, c. 429, §2 (NEW).]

C. The victim of the crime is a total stranger to the offender; and [PL 1995, c. 429, §2 (NEW).]

D. The offender has been previously convicted of a crime under chapter 11 or previously convicted in another jurisdiction for conduct substantially similar to that contained in chapter 11. [PL 2007, c. 476, §3 (AMD).]

A court may also utilize any other factor found by that court to increase the risk of repeat offenses by a person convicted of a crime under chapter 11.
[PL 2007, c. 476, §3 (AMD).]

SECTION HISTORY

PL 1995, c. 429, §2 (NEW). PL 2007, c. 476, §3 (AMD).

§258. Sexual misconduct with a child under 14 years of age

1. A person is guilty of sexual misconduct with a child under 14 years of age if that person, having in fact attained 18 years of age, knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained the age of 14 years, with the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class D crime.
[PL 2003, c. 711, Pt. B, §5 (AMD).]

1-A. A person is guilty of sexual misconduct with a child under 12 years of age if that person, having in fact attained 18 years of age, knowingly displays any sexually explicit materials to another person, not the actor's spouse, who has not in fact attained 12 years of age, with the intent to encourage the other person to engage in a sexual act or sexual contact. Violation of this subsection is a Class C crime.
[PL 2003, c. 711, Pt. B, §6 (NEW).]

2. As used in this section, "sexually explicit materials" means any book, magazine, print, negative, slide, motion picture, videotape or other mechanically reproduced visual material that the person knows or should know depicts a person, minor or adult, engaging in sexually explicit conduct, as that term is defined in section 281.
[PL 2003, c. 711, Pt. B, §7 (AMD).]

3.
[PL 2003, c. 711, Pt. B, §8 (RP).]

SECTION HISTORY

PL 1997, c. 143, §1 (NEW). PL 2003, c. 711, §§B5-8 (AMD).

§259. Solicitation of child by computer to commit a prohibited act

(REPEALED)

SECTION HISTORY

PL 1999, c. 349, §3 (NEW). PL 2001, c. 383, §§24,25 (AMD). PL 2001, c. 383, §156 (AFF). PL 2003, c. 711, §§B9-11 (AMD). PL 2011, c. 597, §2 (RP).

§259-A. Solicitation of a child to commit a prohibited act

1. A person is guilty of soliciting a child to commit a prohibited act if:

A. The actor, with the intent to engage in a prohibited act with the other person, knowingly solicits directly or indirectly that person by any means to engage in a prohibited act and the actor:

(1) Is at least 16 years of age;

(2) Knows or believes that the other person is less than 14 years of age; and

(3) Is at least 3 years older than the age expressed by the other person.

Violation of this paragraph is a Class D crime; or [PL 2011, c. 597, §3 (NEW).]

B. The actor, with the intent to engage in a prohibited act with the other person, knowingly solicits directly or indirectly that person by any means to engage in a prohibited act and the actor:

(1) Is at least 16 years of age;

(2) Knows or believes that the other person is less than 12 years of age; and

(3) Is at least 3 years older than the age expressed by the other person.

Violation of this paragraph is a Class C crime. [PL 2011, c. 597, §3 (NEW).]
[PL 2011, c. 597, §3 (NEW).]

2. For purposes of this section, "prohibited act" means:

A. A sexual act; [PL 2011, c. 597, §3 (NEW).]

B. Sexual contact; or [PL 2011, c. 597, §3 (NEW).]

C. Sexual exploitation of a minor pursuant to section 282. [PL 2011, c. 597, §3 (NEW).]
[PL 2011, c. 597, §3 (NEW).]

SECTION HISTORY

PL 2011, c. 597, §3 (NEW).

§259-B. Solicitation of a child to engage in prostitution

1. A person is guilty of soliciting a child to engage in prostitution if the actor knowingly solicits directly or indirectly by any means a person the actor knows or believes is under 18 years of age to engage in prostitution, as defined in section 851.
[PL 2017, c. 135, §1 (NEW).]

2. Violation of this section is a Class D crime.
[PL 2017, c. 135, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 135, §1 (NEW).

§260. Unlawful sexual touching

1. Unlawful sexual touching. A person is guilty of unlawful sexual touching if the actor intentionally subjects another person to any sexual touching and:

A. The other person has not expressly or impliedly acquiesced in the sexual touching. Violation of this paragraph is a Class D crime; [PL 2003, c. 138, §5 (NEW).]

B. The other person is unconscious or otherwise physically incapable of resisting and has not consented to the sexual touching. Violation of this paragraph is a Class D crime; [PL 2003, c. 138, §5 (NEW).]

C. The other person, not the actor's spouse, is in fact less than 14 years of age and the actor is at least 5 years older. Violation of this paragraph is a Class D crime; [PL 2003, c. 138, §5 (NEW).]

D. The other person suffers from a mental disability that is reasonably apparent or known to the actor that in fact renders the other person substantially incapable of appraising the nature of the touching involved or of understanding that the other person has the right to deny or withdraw consent. Violation of this paragraph is a Class D crime; [PL 2003, c. 138, §5 (NEW).]

E. The other person, not the actor's spouse, is under official supervision as a probationer, a parolee, a sex offender on supervised release, a prisoner on supervised community confinement status or a juvenile on community reintegration status or is detained in a hospital, prison or other institution and the actor has supervisory or disciplinary authority over the other person. Violation of this paragraph is a Class D crime; [PL 2007, c. 102, §4 (AMD).]

F. The other person, not the actor's spouse, is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official having instructional, supervisory or disciplinary authority over the student. Violation of this paragraph is a Class D crime; [PL 2015, c. 509, §3 (AMD).]

G. The other person is in fact less than 18 years of age and the actor is a parent, stepparent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of that other person. Violation of this paragraph is a Class D crime; [PL 2003, c. 138, §5 (NEW).]

H. The other person submits as a result of compulsion. Violation of this paragraph is a Class D crime; [PL 2003, c. 138, §5 (NEW).]

I. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and the organization, program or residence recognizes that other person as a person with an intellectual disability or autism. It is an affirmative defense to prosecution under this paragraph that the actor receives services for an intellectual disability or autism or is a person with an intellectual disability, as defined in Title 34-B, section 5001, subsection 3, or autism, as defined in Title 34-B, section 6002. Violation of this paragraph is a Class D crime; [PL 2011, c. 542, Pt. A, §13 (AMD).]

J. The other person, not the actor's spouse, is in fact less than 18 years of age and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor, who is at least 21 years of age, is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled. Violation of this paragraph is a Class E crime; [PL 2011, c. 423, §7 (AMD).]

K. The actor is a psychiatrist, a psychologist or licensed as a social worker or counseling professional or purports to be a psychiatrist, a psychologist or licensed as a social worker or counseling professional to the other person and the other person, not the actor's spouse, is a current patient or client of the actor. Violation of this paragraph is a Class D crime; [PL 2019, c. 494, §4 (AMD).]

L. The actor owns, operates or is an employee of an organization, program or residence that is operated, administered, licensed or funded by the Department of Health and Human Services and the other person, not the actor's spouse, receives services from the organization, program or residence and suffers from a mental disability that is reasonably apparent or known to the actor. Violation of this paragraph is a Class D crime; or [PL 2011, c. 423, §9 (NEW).]

M. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class D crime. [PL 2011, c. 423, §9 (NEW).]

[PL 2019, c. 494, §4 (AMD).]

SECTION HISTORY

RR 2003, c. 2, §27 (COR). PL 2003, c. 138, §5 (NEW). PL 2005, c. 450, §§3-5 (AMD). PL 2007, c. 102, §4 (AMD). PL 2011, c. 423, §§7-9 (AMD). PL 2011, c. 464, §12 (AMD). PL 2011, c. 542, Pt. A, §13 (AMD). PL 2011, c. 691, Pt. A, §16 (AMD). PL 2015, c. 509, §3 (AMD). PL 2019, c. 494, §4 (AMD).

§261. Prohibited contact with a minor; sex offender restricted zone

1. A person is guilty of prohibited contact with a minor if that person:

A. Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and [PL 2009, c. 365, Pt. A, §1 (AMD).]

B. [PL 2009, c. 365, Pt. A, §1 (RP).]

C. Intentionally or knowingly initiates direct or indirect contact with another person who has not in fact attained 14 years of age. [PL 2009, c. 365, Pt. A, §1 (AMD).]

Violation of this subsection is a Class E crime.
[PL 2009, c. 365, Pt. A, §1 (AMD).]

2. A person is guilty of prohibited contact with a minor in a sex offender restricted zone if that person:

A. Was convicted on or after June 30, 1992 of an offense under this chapter or chapter 12 against another person who had not in fact attained 14 years of age or was convicted on or after June 30, 1992 in another jurisdiction for conduct substantially similar to that contained in this chapter or chapter 12 against another person who had not in fact attained 14 years of age; and [PL 2009, c. 365, Pt. A, §2 (AMD).]

B. [PL 2009, c. 365, Pt. A, §2 (RP).]

C. Intentionally or knowingly initiates direct or indirect contact in a sex offender restricted zone with another person who has not in fact attained 14 years of age. [PL 2009, c. 365, Pt. A, §2 (AMD).]

Violation of this subsection is a Class D crime.
[PL 2009, c. 365, Pt. A, §2 (AMD).]

3. It is an affirmative defense to prosecution under this section that the parent, foster parent, guardian or other similar person responsible for the person who had not in fact attained 14 years of age, knowing the conviction status described in subsections 1 and 2, gave consent that the defendant initiate, have or continue direct or indirect contact. It is also an affirmative defense to prosecution under this section that any contact is incidental to and directly related to the defendant's employment.
[PL 2007, c. 393, §1 (NEW).]

4. For purposes of this section, "sex offender restricted zone" means the real property comprising a public or private elementary or middle school; the real property comprising a child care center, a child

care facility, a day care operated by a family child care provider, a nursery school or a small child care facility as defined under Title 22, section 8301-A; or an athletic field, park, playground, recreational facility, youth camp licensed under Title 22, section 2495 or other place where children are the primary users.
[PL 2009, c. 211, Pt. B, §16 (AMD).]

5. For purposes of this section, "indirect contact" includes, but is not limited to, a person photographing another person who has not in fact attained 14 years of age after the person's having been notified, in writing or otherwise, by a law enforcement officer, corrections officer or judicial officer not to engage in that conduct. The notification not to engage in that conduct expires one year after the date the notification is given. For purposes of this subsection, "photographing" means making, capturing, generating or saving a print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material.
[PL 2017, c. 354, §1 (NEW).]

SECTION HISTORY

PL 2007, c. 393, §1 (NEW). PL 2007, c. 518, §6 (AMD). PL 2009, c. 211, Pt. B, §16 (AMD). PL 2009, c. 365, Pt. A, §§1, 2 (AMD). PL 2017, c. 354, §1 (AMD).

CHAPTER 12

SEXUAL EXPLOITATION OF MINORS

§281. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2003, c. 711, Pt. B, §12 (NEW).]

1. "Disseminate" means to manufacture, publish, send, promulgate, distribute, exhibit, issue, furnish, sell or transfer or to offer or agree to do any of these acts.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

2. "Minor" means a person who has not attained 18 years of age.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

3. "Photograph" means to make, capture, generate or save a print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

4. "Sexually explicit conduct" means any of the following acts:

A. A sexual act; [PL 2003, c. 711, Pt. B, §12 (NEW).]

B. Bestiality; [PL 2003, c. 711, Pt. B, §12 (NEW).]

C. Masturbation; [PL 2003, c. 711, Pt. B, §12 (NEW).]

D. Sadomasochistic abuse for the purpose of sexual stimulation; [PL 2003, c. 711, Pt. B, §12 (NEW).]

E. Lewd exhibition of the genitals, anus or pubic area of a person. An exhibition is considered lewd if the exhibition is designed for the purpose of eliciting or attempting to elicit a sexual response in the intended viewer; or [PL 2003, c. 711, Pt. B, §12 (NEW).]

F. Conduct that creates the appearance of the acts in paragraphs A to D and also exhibits any uncovered or covered portions of the genitals, anus or pubic area. [PL 2003, c. 711, Pt. B, §12 (NEW).]

[PL 2003, c. 711, Pt. B, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 711, §B12 (NEW).

§282. Sexual exploitation of minor

1. A person is guilty of sexual exploitation of a minor if:

A. Knowing or intending that the conduct will be photographed, the person intentionally or knowingly employs, solicits, entices, persuades or uses another person, not that person's spouse, who has not in fact attained 16 years of age, to engage in sexually explicit conduct, except that it is not a violation of this paragraph if the other person is 14 or 15 years of age and the person is less than 5 years older than the other person. Violation of this paragraph is a Class B crime; [PL 2015, c. 394, §1 (AMD).]

A-1. Knowing or intending that the conduct will be photographed, the person intentionally or knowingly compels or induces by any threat another person, not that person's spouse, who is in fact a minor, to engage in sexually explicit conduct. Violation of this paragraph is a Class B crime; [PL 2015, c. 394, §1 (NEW).]

B. The person violates paragraph A or A-1 and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime; [PL 2015, c. 394, §1 (AMD).]

C. The person violates paragraph A or A-1 and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime; [PL 2015, c. 394, §1 (AMD).]

D. Being a parent, legal guardian or other person having care or custody of another person who has not in fact attained 16 years of age, that person knowingly or intentionally permits that person who has not in fact attained 16 years of age to engage in sexually explicit conduct, knowing or intending that the conduct will be photographed. Violation of this paragraph is a Class B crime; [PL 2015, c. 394, §1 (AMD).]

E. The person violates paragraph D and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime; or [PL 2007, c. 476, §5 (AMD).]

F. The person violates paragraph D and the minor has not in fact attained 12 years of age. Violation of this paragraph is a Class A crime. [PL 2003, c. 711, Pt. B, §12 (NEW).]

[PL 2015, c. 394, §1 (AMD).]

2. The following mandatory minimum terms of imprisonment apply to sexual exploitation of a minor.

A. A court shall impose upon a person convicted under subsection 1, paragraph A, A-1 or D a sentencing alternative involving a term of imprisonment of at least 5 years. [PL 2015, c. 394, §2 (AMD).]

B. A court shall impose upon a person convicted under subsection 1, paragraph B or E a sentencing alternative involving a term of imprisonment of at least 10 years. [PL 2003, c. 711, Pt. B, §12 (NEW).]

The court may not suspend a minimum term of imprisonment imposed under this section unless it sets forth in detail, in writing, the reasons for suspending the sentence. The court shall consider the nature and circumstances of the crime, the physical and mental well-being of the minor and the history and character of the defendant and may only suspend the minimum term if the court is of the opinion that

the exceptional features of the case justify the imposition of another sentence. Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2015, c. 394, §2 (AMD).]

3. Aggravating sentencing factor of victim under 12 years of age. If the State pleads and proves that a crime under this section was committed against an individual who had not attained 12 years of age, the court, in determining the appropriate sentence, shall treat the age of the victim as an aggravating sentencing factor.
[PL 2019, c. 113, Pt. B, §15 (NEW).]

SECTION HISTORY

PL 2003, c. 711, §B12 (NEW). PL 2007, c. 476, §§4, 5 (AMD). PL 2015, c. 394, §§1, 2 (AMD). PL 2019, c. 113, Pt. B, §15 (AMD).

§283. Dissemination of sexually explicit material

1. A person is guilty of dissemination of sexually explicit material if:

A. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any person who has not in fact attained 16 years of age who the person knows or has reason to know is a person under 16 years of age engaging in sexually explicit conduct, except that it is not a violation of this paragraph if the person depicted is 14 or 15 years of age and the person is less than 5 years older than the person depicted. Violation of this paragraph is a Class C crime; [PL 2015, c. 394, §3 (AMD).]

B. The person violates paragraph A and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class B crime; [PL 2007, c. 476, §6 (AMD).]

C. The person intentionally or knowingly disseminates or possesses with intent to disseminate any book, magazine, newspaper, print, negative, slide, motion picture, videotape, computer data file or other mechanically, electronically or chemically reproduced visual image or material that depicts any minor who is less than 12 years of age who the person knows or has reason to know is a minor less than 12 years of age engaging in sexually explicit conduct. Violation of this paragraph is a Class B crime; or [PL 2003, c. 711, Pt. B, §12 (NEW).]

D. The person violates paragraph C and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class A crime. [PL 2007, c. 476, §7 (AMD).]

Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2015, c. 394, §3 (AMD).]

2. For the purposes of this section, possession of 10 or more copies of any of the materials as described in subsection 1 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person possesses those items with intent to disseminate.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

3. For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time of dissemination or possession of the sexually explicit visual image or material.
[PL 2009, c. 608, §3 (NEW).]

SECTION HISTORY

PL 2003, c. 711, §B12 (NEW). PL 2007, c. 476, §§6, 7 (AMD). PL 2009, c. 608, §3 (AMD). PL 2015, c. 394, §3 (AMD).

§284. Possession of sexually explicit material

1. A person is guilty of possession of sexually explicit material if that person:

A. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

(1) The other person has not in fact attained 16 years of age; or

(2) The person knows or has reason to know that the other person has not attained 16 years of age.

It is not a violation of this paragraph if the person depicted is 14 or 15 years of age and the person is less than 5 years older than the person depicted.

Violation of this paragraph is a Class D crime; [PL 2015, c. 394, §4 (AMD).]

B. Violates paragraph A and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §8 (AMD).]

C. Intentionally or knowingly transports, exhibits, purchases, possesses or accesses with intent to view any book, magazine, newspaper, print, negative, slide, motion picture, computer data file, videotape or other mechanically, electronically or chemically reproduced visual image or material that the person knows or should know depicts another person engaging in sexually explicit conduct, and:

(1) The other person has not in fact attained 12 years of age; or

(2) The person knows or has reason to know that the other person has not attained 12 years of age.

Violation of this paragraph is a Class C crime; or [PL 2011, c. 50, §2 (AMD).]

D. Violates paragraph C and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Violation of this paragraph is a Class B crime. [PL 2007, c. 476, §9 (AMD).]

Section 9-A governs the use of prior convictions when determining a sentence.
[PL 2015, c. 394, §4 (AMD).]

2. It is a defense to a prosecution under this section that the person depicted was the spouse of the person possessing the sexually explicit material at the time the material was produced.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

3. The age of the person depicted and that the person depicted is an actual person may be reasonably inferred from the depiction. Competent medical evidence or other expert testimony may be used to establish the age and authenticity of the person depicted.
[PL 2005, c. 345, §2 (AMD).]

4. Any material that depicts a person who has not attained 16 years of age engaging in sexually explicit conduct is declared to be contraband and may be seized by the State.
[PL 2005, c. 345, §2 (AMD).]

5. For purposes of this section, any element of age of the person depicted means the age of the person at the time the sexually explicit conduct occurred, not the age of the person depicted at the time

of the transporting, exhibiting, purchasing, possession or accessing of the sexually explicit visual image or material.
[PL 2011, c. 464, §13 (AMD).]

SECTION HISTORY

PL 2003, c. 711, §B12 (NEW). PL 2005, c. 345, §§1,2 (AMD). PL 2007, c. 476, §§8, 9 (AMD). PL 2009, c. 608, §4 (AMD). PL 2011, c. 50, §§1-3 (AMD). PL 2011, c. 464, §13 (AMD). PL 2015, c. 394, §4 (AMD).

§285. Forfeiture of equipment used to facilitate violations

1. Upon a finding of guilt of any violation of this chapter, but prior to sentencing, an attorney for the State may, in writing, move the court for an order requiring the forfeiture to the State of any equipment, including computers, that may have facilitated the commission of the offense. Notice of the motion must be made by the State to the defendant and any party of interest; this notice must be done by registered mail.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

2. If contesting the forfeiture, the defendant or other party-in-interest in the in rem civil forfeiture proceeding may request a jury trial. Absent that request, the proceeding must be before the court.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

3. At the jury trial or court hearing, the State has the burden of proving to the fact finder by a preponderance of the evidence that the equipment was used in violation of this chapter.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

4. Upon a finding by a preponderance of the evidence that the equipment was used to facilitate the commission of a violation of this chapter, the court shall order the equipment forfeited and may, upon the written recommendation of the attorney for the State, provide in its order for the disposition or use of the equipment by any state, county or municipal law enforcement agency that made a substantial contribution to the investigation or prosecution of the case. Any equipment forfeited that is not transferred to an investigating or prosecuting agency must be sold and the proceeds deposited in the General Fund.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

5. The Attorney General may adopt by rule guidelines regulating the disposition and use of property forfeited or sought for forfeiture under this section. Rules adopted under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.
[PL 2003, c. 711, Pt. B, §12 (NEW).]

SECTION HISTORY

PL 2003, c. 711, §B12 (NEW).

CHAPTER 13

KIDNAPPING, CRIMINAL RESTRAINT AND CRIMINAL FORCED LABOR

§301. Kidnapping

1. A person is guilty of kidnapping if either:

A. The actor knowingly restrains another person with the intent to:

(1) Hold the other person for ransom or reward;

(2) Use the other person as a shield or hostage;

(3) Inflict bodily injury upon the other person or subject the other person to conduct defined as criminal in chapter 11;

(4) Terrorize the other person or a 3rd person;

(5) Facilitate the commission of another crime by any person or flight thereafter; or

(6) Interfere with the performance of any governmental or political function; or [PL 2001, c. 383, §26 (AMD); PL 2001, c. 383, §156 (AFF).]

B. The actor knowingly restrains another person:

(1) Under circumstances which in fact expose the other person to risk of serious bodily injury; or

(2) By secreting and holding the other person in a place where the other person is not likely to be found. [PL 2001, c. 383, §26 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §26 (AMD); PL 2001, c. 383, §156 (AFF).]

2. "Restrain" means to restrict substantially the movements of another person without the other person's consent or other lawful authority by:

A. Removing the other person from the other person's residence or place of business or from a school; [PL 2007, c. 684, Pt. A, §1 (AMD); PL 2007, c. 684, Pt. H, §1 (AFF).]

B. Moving the other person a substantial distance from the vicinity where the other person is found; [PL 2007, c. 684, Pt. A, §1 (AMD); PL 2007, c. 684, Pt. H, §1 (AFF).]

C. Confining the other person for a substantial period either in the place where the restriction commences or in a place to which the other person has been moved; [PL 2007, c. 684, Pt. A, §1 (AMD); PL 2007, c. 684, Pt. H, §1 (AFF).]

D. Destroying, concealing, removing, confiscating or possessing any actual or purported passport or other immigration document or other actual or purported government identification document of the other person; or [PL 2007, c. 684, Pt. A, §1 (NEW); PL 2007, c. 684, Pt. H, §1 (AFF).]

E. Using any scheme, plan or pattern intended to cause the other person to believe that if the person does not perform certain labor or services, including prostitution, that the person or another person will suffer serious harm or restraint. [PL 2007, c. 684, Pt. A, §1 (NEW); PL 2007, c. 684, Pt. H, §1 (AFF).]

[PL 2007, c. 684, Pt. A, §1 (AMD); PL 2007, c. 684, Pt. H, §1 (AFF).]

2-A. "Hostage" means a person restrained with the intent that a 3rd person, not the person restrained or the actor, perform or refrain from performing some act.

[PL 1979, c. 512, §24 (NEW).]

2-B. It is a defense to a prosecution under this section that the person restrained is the child of the actor.

[PL 1979, c. 512, §24 (NEW).]

3. Kidnapping is a Class A crime. It is however, a defense which reduces the crime to a Class B crime, if the defendant voluntarily released the victim alive and not suffering from serious bodily injury, in a safe place prior to trial.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §24 (AMD). PL 2001, c. 383, §26 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 684, Pt. A, §1 (AMD). PL 2007, c. 684, Pt. H, §1 (AFF).

§302. Criminal restraint

1. A person is guilty of criminal restraint if:

A. Knowing the actor has no legal right to do so, the actor intentionally or knowingly takes, retains or entices another person who:

(1) Is less than 14 years of age. Violation of this subparagraph is a Class D crime;

(2) Is incompetent. Violation of this subparagraph is a Class D crime;

(3) Is either 14, 15 or 16 years of age from the custody of the other person's parent, guardian or other lawful custodian, with the intent to hold the other person permanently or for a prolonged period and the actor is at least 18 years of age. Violation of this subparagraph is a Class D crime; or

(4) Is in fact less than 8 years of age. Violation of this subparagraph is a Class C crime; or [PL 2001, c. 383, §27 (RPR); PL 2001, c. 383, §156 (AFF).]

B. The actor:

(1) Knowingly restrains another person. Violation of this subparagraph is a Class D crime; or

(2) Knowingly restrains another person who is in fact less than 8 years of age. Violation of this subparagraph is a Class C crime.

As used in this paragraph, "restrain" has the same meaning as in section 301, subsection 2. [PL 2001, c. 383, §27 (RPR); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §27 (RPR); PL 2001, c. 383, §156 (AFF).]

2. It is a defense to a prosecution under this section that the actor is the parent of the other person taken, retained, enticed or restrained. Consent by the person taken, retained or enticed is not a defense to a prosecution under subsection 1, paragraph A.

[PL 2001, c. 383, §27 (RPR); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §27 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §25 (RPR). PL 1987, c. 150 (AMD). PL 1995, c. 689, §1 (AMD). PL 2001, c. 383, §27 (RPR). PL 2001, c. 383, §156 (AFF).

§303. Criminal restraint by parent

1. A person is guilty of criminal restraint by a parent if, being the parent of a child and knowing the person has no legal right to do so, the person takes, retains or entices the child:

A. Who has not in fact attained 16 years of age, from the custody of the child's other parent, guardian or other lawful custodian with the intent to remove the child from the State or to secrete the child and hold the child in a place where the child is not likely to be found. Violation of this paragraph is a Class C crime; [PL 2007, c. 96, §7 (AMD).]

B. Who resides in another state and who has not in fact attained 16 years of age, from the custody of the child's other parent, guardian or other lawful custodian, whose custodial authority was established by a court of this State, with the intent to remove the child from that state or to secrete the child and hold the child in a place where the child is not likely to be found. Violation of this paragraph is a Class C crime; or [PL 2007, c. 96, §7 (AMD).]

C. Who is either 16 or 17 years of age, from the custody of the Department of Corrections or the Department of Health and Human Services with the intent to remove the child from the State or to secrete the child and hold the child in a place where the child is not likely to be found. Violation of this paragraph is a Class D crime. [PL 2007, c. 96, §7 (NEW).]

[PL 2007, c. 96, §7 (AMD).]

2. Consent by the child taken, enticed or retained is not a defense under this section.
[PL 2007, c. 96, §7 (AMD).]

3. A law enforcement officer may not be held liable for taking physical custody of a child who the officer reasonably believes has been taken, retained or enticed in violation of this section and for delivering the child to a person who the officer reasonably believes is the child's lawful custodian or to any other suitable person.

For purposes of this subsection, "reasonable belief a child has been taken, retained or enticed in violation of this section" includes, but is not limited to, a determination by a law enforcement officer, based on the officer's review of the terms of a certified copy of the most recent court decree granting custody of the child, that the parent who is exercising control over the child is not the person authorized to have custody under terms of the decree.
[PL 2007, c. 96, §7 (AMD).]

4. A law enforcement officer may arrest without a warrant any person who the officer has probable cause to believe has violated or is violating this section.
[PL 2007, c. 96, §7 (AMD).]

5.
[PL 2007, c. 96, §7 (RP).]

SECTION HISTORY

PL 1979, c. 512, §26 (NEW). PL 1981, c. 669, §§1-3 (AMD). PL 2007, c. 96, §7 (AMD).

§304. Criminal forced labor

1. A person is guilty of criminal forced labor if the actor, without the legal right to do so, intentionally or knowingly:

A. Withholds or threatens to withhold a scheduled drug or alcohol from a person who is in a state of psychic or physical dependence, or both, arising from the use of the drug or alcohol on a continuing basis in order to compel that person to provide labor or services having economic value; [PL 2017, c. 416, §2 (NEW).]

B. Withholds or threatens to withhold a substance or medication from a person who has a prescription or medical need for the substance or medication in order to compel that person to provide labor or services having economic value; [PL 2017, c. 416, §2 (NEW).]

C. Uses a person's physical or mental impairment that has substantial adverse effects on that person's cognitive or volitional functions as a means to compel that person to provide labor or services having economic value; [PL 2017, c. 416, §2 (NEW).]

D. Makes material false statements, misstatements or omissions in order to compel a person to provide labor or services having economic value; [PL 2017, c. 416, §2 (NEW).]

E. Withholds, destroys or confiscates an actual or purported passport or other immigration document or other actual or purported government identification document in order to compel a person to provide labor or services having economic value; [PL 2017, c. 416, §2 (NEW).]

F. Compels a person to provide labor or services having economic value to retire, repay or service an actual or purported debt if:

(1) The reasonable value of the labor or services is not applied toward the liquidation of the debt; or

(2) The length of labor or services is not limited and the nature of the labor or services is not defined; or [PL 2017, c. 416, §2 (NEW).]

G. Uses force or engages in any scheme, plan or pattern to instill in a person a fear that, if that person does not provide labor or services having economic value, the actor or another person will:

(1) Cause physical injury to or death of a person;

(2) Cause destruction of or consequential damage to property, other than property of the actor;

(3) Engage in other conduct constituting a Class A, B or C crime or criminal restraint;

(4) Accuse a person of a crime or cause criminal charges or deportation proceedings to be instituted against a person;

(5) Expose a secret or publicize an asserted fact, regardless of veracity, that would subject a person, except the actor, to hatred, contempt or ridicule;

(6) Testify or provide information or withhold testimony or information regarding a person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to an official duty or fail or refuse to perform an official duty in a manner that affects a person; or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status. [PL 2017, c. 416, §2 (NEW).]

[PL 2017, c. 416, §2 (NEW).]

2. Criminal forced labor is a Class C crime.

[PL 2017, c. 416, §2 (NEW).]

3. It is an affirmative defense to prosecution under this section that the person engaged in criminal forced labor because the person was compelled to do so as described in subsection 1.

[PL 2017, c. 416, §2 (NEW).]

SECTION HISTORY

PL 2017, c. 416, §2 (NEW).

§305. Aggravated criminal forced labor

1. A person is guilty of aggravated criminal forced labor if the actor violates section 304 and the person compelled to provide labor or services having economic value has not in fact attained 18 years of age.

[PL 2017, c. 416, §2 (NEW).]

2. Aggravated criminal forced labor is a Class B crime.

[PL 2017, c. 416, §2 (NEW).]

3. It is an affirmative defense to prosecution under this section that the person engaged in aggravated criminal forced labor because the person was compelled to do so as described in section 304, subsection 1.

[PL 2017, c. 416, §2 (NEW).]

SECTION HISTORY

PL 2017, c. 416, §2 (NEW).

CHAPTER 15

THEFT

§351. Consolidation

Conduct denominated theft in this chapter constitutes a single crime embracing the separate crimes such as those heretofore known as larceny, larceny by trick, larceny by bailee, embezzlement, false pretenses, extortion, blackmail, shoplifting and receiving stolen property. An accusation of theft may be proved by evidence that it was committed in any manner that would be theft under this chapter, notwithstanding the specification of a different manner in the complaint, information or indictment, subject only to the power of the court to ensure a fair trial by granting a continuance or other appropriate relief if the conduct of the defense would be prejudiced by lack of fair notice or by surprise. If the evidence is sufficient to permit a finding of guilt of theft in more than one manner, no election among those manners is required. [PL 2007, c. 475, §11 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 317, §7 (AMD). PL 2007, c. 475, §11 (AMD).

§352. Definitions

As used in this chapter, unless a different meaning is plainly required by the context: [PL 1975, c. 499, §1 (NEW).]

1. "Property" means anything of value, including but not limited to:

A. Real estate and things growing thereon, affixed to or found thereon; [PL 1975, c. 499, §1 (NEW).]

B. Tangible and intangible personal property; [PL 1975, c. 499, §1 (NEW).]

C. Captured or domestic animals, birds or fishes; [PL 1975, c. 499, §1 (NEW).]

D. Written instruments, including credit cards, or other writings representing or embodying rights concerning real or personal property, labor, services or otherwise containing anything of value to the owner; [PL 1975, c. 499, §1 (NEW).]

E. Commodities of a public utility nature such as telecommunications, gas, electricity, steam or water; and [PL 1975, c. 499, §1 (NEW).]

F. Trade secrets, meaning the whole or any portion of any scientific or technical information, design, process, procedure, formula or invention which the owner thereof intends to be available only to persons selected by the owner. [PL 2001, c. 383, §28 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §28 (AMD); PL 2001, c. 383, §156 (AFF).]

2. "Obtain" means:

A. In relation to property, to bring about, in or out of this State, a transfer of possession or of some other legally recognized interest in property, whether to the obtainer or another; [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

B. In relation to labor or services, to secure performance of labor or services; and [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

C. In relation to a trade secret, to make any facsimile, replica, photograph or other reproduction. [PL 2001, c. 383, §29 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §29 (RPR); PL 2001, c. 383, §156 (AFF).]

3. "Intent to deprive" means to have the conscious object:

A. To withhold property permanently or for so extended a period or to use under such circumstances that a substantial portion of its economic value, or the use and benefit of the property, would be lost; or [PL 2001, c. 383, §30 (AMD); PL 2001, c. 383, §156 (AFF).]

B. To restore the property only upon payment of a reward or other compensation; or [PL 1975, c. 499, §1 (NEW).]

C. To use or dispose of the property under circumstances that make it unlikely that the owner will recover it or that manifest an indifference as to whether the owner will recover it. [PL 1981, c. 317, §8 (AMD).]

[PL 2001, c. 383, §30 (AMD); PL 2001, c. 383, §156 (AFF).]

4. "Property of another" includes property in which any person or government other than the actor has an interest that the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in the possession of the actor may not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security agreement.

[PL 2001, c. 383, §31 (AMD); PL 2001, c. 383, §156 (AFF).]

5. The meaning of "value" must be determined according to the following.

A. Except as otherwise provided in this subsection, value means the market value of the property or services at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property or services within a reasonable time after the crime. [PL 1975, c. 499, §1 (NEW).]

B. The value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft or promissory note, is deemed the amount due or collectible on the instrument, and, in the case of any other instrument that creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation, is deemed the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

C. The value of a trade secret that does not have a readily ascertainable market value is deemed any reasonable value representing the damage to the owner suffered by reason of losing an advantage over those who do not know of or use the trade secret. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

D. If the value of property or services cannot be ascertained beyond a reasonable doubt pursuant to the standards set forth in paragraphs A to C, the trier of fact may find the value to be not less than a certain amount, and if no such minimum value can be thus ascertained, the value is deemed to be an amount less than $500. [PL 2005, c. 527, §6 (AMD).]

E. Amounts of value involved in thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be aggregated to charge a single theft of appropriate class or grade. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregated count be considered as separate thefts. An aggregated count of theft may not be deemed duplicitous because of such an order and an election may not be required. Prosecution may be brought in any venue in which one of the thefts that have been aggregated was committed. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

F. The actor's culpability as to value is not an essential requisite of liability, unless otherwise expressly provided. [PL 2001, c. 383, §32 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2005, c. 527, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§52-54 (AMD). PL 1977, c. 510, §46 (AMD). PL 1981, c. 317, §8 (AMD). PL 1995, c. 224, §2 (AMD). PL 2001, c. 383, §§28-32 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 389, §2 (AMD). PL 2005, c. 199, §3 (AMD). PL 2005, c. 527, §6 (AMD).

§353. Theft by unauthorized taking or transfer

1. A person is guilty of theft if:

A. The person obtains or exercises unauthorized control over the property of another with intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; [PL 2005, c. 199, §4 (AMD).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime; or [PL 2007, c. 476, §10 (AMD).]

C. The person knowingly operates an audiovisual or audio recording function of any device in a motion picture theater while a motion picture is being exhibited for the purpose of making a copy of the motion picture, without the written consent of the motion picture theater owner. Violation of this paragraph is a Class D crime. [PL 2005, c. 199, §4 (NEW).]

[PL 2007, c. 476, §10 (AMD).]

2. As used in this section, "exercises unauthorized control" includes but is not limited to conduct formerly defined or known as common law larceny by trespassory taking, larceny by conversion, larceny by bailee and embezzlement.

[PL 2001, c. 383, §33 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §33 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D3 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2005, c. 199, §4 (AMD). PL 2007, c. 476, §10 (AMD).

§353-A. Theft by unauthorized taking or transfer at a casino or slot machine facility

(REPEALED)

SECTION HISTORY

PL 2011, c. 585, §14 (NEW). PL 2013, c. 96, §2 (RP).

§354. Theft by deception

1. A person is guilty of theft if:

A. The person obtains or exercises control over property of another as a result of deception and with intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §34 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §11 (AMD).]

[PL 2007, c. 476, §11 (AMD).]

2. For purposes of this section, deception occurs when a person intentionally:

A. Creates or reinforces an impression that is false and that the person does not believe to be true, including false impressions that the person is a veteran or a member of the Armed Forces of the United States or a state military force and false impressions as to identity, law, value, knowledge, opinion, intention or other state of mind; except that an intention not to perform a promise, or knowledge that a promise will not be performed, may not be inferred from the fact alone that the promise was not performed; [PL 2015, c. 437, §1 (AMD).]

B. Fails to correct an impression that is false and that the person does not believe to be true and that:

(1) The person had previously created or reinforced; or

(2) The person knows to be influencing another whose property is involved and to whom the person stands in a fiduciary or confidential relationship; [PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

C. Prevents another from acquiring information that is relevant to the disposition of the property involved; or [PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

D. Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property that the person transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid, or is or is not a matter of official record. [PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

[PL 2015, c. 437, §1 (AMD).]

3. It is not a defense to a prosecution under this section that the deception related to a matter that was of no pecuniary significance or that the person deceived acted unreasonably in relying on the deception.

[PL 2001, c. 383, §34 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §47 (AMD). PL 1999, c. 455, §1 (AMD). PL 2001, c. 383, §34 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D4 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §11 (AMD). PL 2015, c. 21, §1 (AMD). PL 2015, c. 437, §1 (AMD).

§354-A. Insurance deception

1. A person is guilty of theft if:

A. The person obtains or exercises control over property of another as a result of insurance deception and with an intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §35 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §12 (AMD).]

[PL 2007, c. 476, §12 (AMD).]

2. For purposes of this section, insurance deception occurs when a person intentionally makes a misrepresentation or written false statement that the person does not believe to be true relating to a material fact to any person engaged in the business of insurance concerning any of the following:

A. An application for the issuance or renewal of an insurance policy; [PL 1997, c. 779, §1 (NEW).]

B. The rating of an insurance policy; [PL 1997, c. 779, §1 (NEW).]

C. Payment made in accordance with an insurance policy; [PL 1997, c. 779, §1 (NEW).]

D. A claim for payment or benefit pursuant to an insurance policy; or [PL 1997, c. 779, §1 (NEW).]

E. Premiums paid on an insurance policy. [PL 1997, c. 779, §1 (NEW).]
[PL 1997, c. 779, §1 (NEW).]

3. It is not a defense to a prosecution under this section that the deception related to a matter that was of no pecuniary significance or that the person deceived acted unreasonably in relying on the deception.
[PL 2001, c. 383, §36 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1997, c. 779, §1 (NEW). PL 2001, c. 383, §§35,36 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D5 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §12 (AMD).

§355. Theft by extortion

1. A person is guilty of theft if the person obtains or exercises control over the property of another as a result of extortion and with intent to deprive the other person of the property.
[PL 2001, c. 383, §37 (AMD); PL 2001, c. 383, §156 (AFF).]

2. As used in this section, extortion occurs when a person threatens to:

A. Cause physical harm in the future to the person threatened or to any other person or to property at any time; or [PL 1975, c. 499, §1 (NEW).]

B. Do any other act that would not in itself substantially benefit the person but that would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation or personal relationships. [PL 2001, c. 383, §38 (AMD); PL 2001, c. 383, §156 (AFF).]
[PL 2001, c. 383, §38 (AMD); PL 2001, c. 383, §156 (AFF).]

3. Violation of this section is a Class C crime.
[PL 2001, c. 383, §39 (NEW); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §§37-39 (AMD). PL 2001, c. 383, §156 (AFF).

§356. Theft of lost, mislaid or mistakenly delivered property

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 317, §9 (RPR). PL 1981, c. 529, §1 (RPR). PL 2001, c. 383, §40 (RP). PL 2001, c. 383, §156 (AFF).

§356-A. Theft of lost, mislaid or mistakenly delivered property

1. A person is guilty of theft if:

A. The person obtains or exercises control over the property of another that the person knows to have been lost or mislaid or to have been delivered under a mistake as to the identity of the recipient or as to the nature or amount of the property and, with the intent to deprive the owner of the property at any time subsequent to acquiring it, the person fails to take reasonable measures to return it. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §41 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §13 (AMD).]

[PL 2007, c. 476, §13 (AMD).]

SECTION HISTORY

PL 2001, c. 383, §41 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D6 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §13 (AMD).

§357. Theft of services

1. A person is guilty of theft if:

A. The person obtains services by deception, threat, force or any other means designed to avoid the due payment for the services that the person knows are available only for compensation. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the services is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(3) The value of the services is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(4) The value of the services is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §14 (AMD).]

[PL 2007, c. 476, §14 (AMD).]

2. A person is guilty of theft if:

A. Having control over the disposition of services of another, to which the person knows the person is not entitled, the person diverts such services to the person's own benefit or to the benefit of some other person who the person knows is not entitled to the services. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the services is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) That person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(3) The value of the services is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(4) The value of the services is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(5) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §15 (AMD).]

[PL 2007, c. 476, §15 (AMD).]

3. As used in this section:

A. "Deception" has the same meaning as in section 354; [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

B. "Services" includes, but is not limited to, labor; professional service; public utility service; transportation service; ski-lift service; restaurant, hotel, motel, tourist cabin, rooming house and like accommodations; the supplying of equipment, tools, vehicles or trailers for temporary use; telephone, cellular telephone, telegraph, cable television or computer service; gas, electricity, water or steam; admission to entertainment, exhibitions, sporting events or other events; or other services for which a charge is made; and [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

C. "Threat" is deemed to occur under the circumstances described in section 355, subsection 2. [PL 2001, c. 383, §42 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §42 (RPR); PL 2001, c. 383, §156 (AFF).]

4. When compensation for service is ordinarily paid immediately upon the rendering of such service, as in the case of hotels, restaurants, ski lifts, garages or sporting events, nonpayment prior to use or enjoyment, refusal to pay or absconding without payment or offer to pay gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the service was obtained by deception.

[PL 2001, c. 383, §42 (RPR); PL 2001, c. 383, §156 (AFF).]

5. Proof that utility services or electricity services have been improperly diverted or that devices belonging to the utility or electricity service provider and installed for the delivery, regulation or

measurement of utility services or electricity services have been interfered with gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person to whom the utility service or electricity service is being delivered or diverted knowingly created or caused to be created the improper diversion or interference with the devices of the utility or electricity service provider.

This inference does not apply unless the person to whom the utility service or electricity service is being delivered has been furnished the service for at least 30 days.

For purposes of this subsection, "electricity service" means electric billing and metering services, as defined in Title 35-A, section 3201, subsection 8, and the service of a competitive electricity provider, as defined in Title 35-A, section 3201, subsection 5.
[PL 2001, c. 383, §42 (RPR); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 183, §§1,2 (AMD). PL 1989, c. 138 (AMD). PL 1993, c. 106, §1 (AMD). PL 1995, c. 107, §1 (AMD). PL 1999, c. 657, §8 (AMD). PL 2001, c. 383, §42 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §§D7,8 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §§14, 15 (AMD).

§357-A. Theft of utility services

(REPEALED)

SECTION HISTORY

PL 1981, c. 668, §1 (NEW). PL 1993, c. 106, §2 (RP).

§358. Theft by misapplication of property

1. A person is guilty of theft if:

A. The person obtains property from anyone or personal services from an employee upon agreement, or subject to a known legal obligation, to make a specified payment or other disposition to a 3rd person or to a fund administered by that person, whether from that property or its proceeds or from that person's own property to be reserved in an equivalent or agreed amount, if that person intentionally or recklessly fails to make the required payment or disposition and deals with the property obtained or withheld as that person's own. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §43 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $2,000 and the person is a payroll processor. Violation of this paragraph is a Class B crime;

(5) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(6) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime;

(7) The value of the property is more than $1,000 but not more than $2,000 and the person is a payroll processor. Violation of this subparagraph is a Class C crime;

(8) The person is a payroll processor and has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class B crime; or

(9) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §16 (AMD).]

[PL 2007, c. 476, §16 (AMD).]

2. Liability under subsection 1 is not affected by the fact that it may be impossible to identify particular property as belonging to the victim at the time of the failure to make the required payment or disposition.

[PL 1975, c. 499, §1 (NEW).]

3. Proof that a person is an officer or employee of the government or of a financial institution gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person:

A. Knows of any legal obligation relevant to the person's liability under this section; and [PL 2001, c. 383, §44 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Dealt with the property as the person's own if the person fails to pay or account upon lawful demand, or if an audit reveals a shortage or falsification of the person's accounts. [PL 2001, c. 383, §44 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §44 (AMD); PL 2001, c. 383, §156 (AFF).]

4. "Payroll processor" has the same meaning as in Title 10, section 1495.

[PL 2001, c. 383, §45 (NEW); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §§43-45 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D9 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §16 (AMD).

§359. Receiving stolen property

1. A person is guilty of theft if:

A. The person receives, retains or disposes of the property of another knowing that it has been stolen, or believing that it has probably been stolen, with the intent to deprive the owner of the property. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §46 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The value of the property is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The property stolen is a firearm or an explosive device. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon at the time of the offense. Violation of this subparagraph is a Class B crime;

(4) The value of the property is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(5) The value of the property is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(6) The person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §17 (AMD).]

[PL 2007, c. 476, §17 (AMD).]

2. As used in this section, "receives" means acquiring possession, control or title, or lending on the security of the property. For purposes of this section, property is "stolen" if it was obtained or unauthorized control was exercised over it in violation of this chapter.

[PL 1975, c. 740, §55 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §55 (AMD). PL 2001, c. 383, §46 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D10 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §17 (AMD).

§360. Unauthorized use of property

1. A person is guilty of theft if:

A. Knowing that the person does not have the consent of the owner, the person takes, operates or exercises control over a vehicle, or, knowing that a vehicle has been so wrongfully obtained, the person rides in the vehicle. Violation of this paragraph is a Class D crime; [PL 2003, c. 510, Pt. C, §4 (AMD).]

A-1. The person violates paragraph A and the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §18 (AMD).]

B. Having custody of a vehicle pursuant to an agreement between the person and the owner of the vehicle whereby the person or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of the vehicle, the person intentionally uses or operates the vehicle, without the consent of the owner, for the person's own purposes in a manner

constituting a gross deviation from the agreed purpose. Violation of this paragraph is a Class D crime; [PL 2003, c. 510, Pt. C, §4 (AMD).]

B-1. The person violates paragraph B and the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §19 (AMD).]

C. Having custody of property pursuant to a rental or lease agreement with the owner of the property or a borrower's agreement with a library or museum whereby the property is to be returned to the owner at a specified time and place, the person knowingly fails to comply with the agreed terms concerning return of such property without the consent of the owner, for so lengthy a period beyond the specified time for return as to render the retention or possession or other failure to return a gross deviation from the agreement. For purposes of this paragraph, proof that the person fails to return the property within 5 days of receiving a written demand from the owner, mailed by certified or registered mail or delivered by hand after the expiration of the rental period to the most current address known to the owner, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 of a gross deviation from the agreement. Violation of this paragraph is a Class D crime; or [PL 2003, c. 510, Pt. C, §4 (AMD).]

D. The person violates paragraph C and the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are: theft; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702, 703 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §20 (AMD).]

[PL 2007, c. 476, §§18-20 (AMD).]

2. As used in this section, "vehicle" means any automobile, airplane, motorcycle, motorboat, snowmobile, any other motor-propelled means of transportation, or any boat or vessel propelled by sail, oar or paddle.

[PL 1975, c. 740, §57 (AMD).]

3. It is a defense to a prosecution under this section that the person reasonably believed that the owner would have consented to the person's conduct had the owner known of it.

[PL 2001, c. 383, §48 (AMD); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2003, c. 510, Pt. C, §5 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§56,57 (AMD). PL 1997, c. 319, §1 (AMD). PL 1999, c. 262, §1 (AMD). PL 2001, c. 383, §§47-49 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D11 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 510, §§C4,5 (AMD). PL 2007, c. 476, §§18-20 (AMD).

§361. Affirmative defense of claim of right

It is an affirmative defense to prosecution under this chapter that the defendant acted in good faith under a claim of right to property or services involved, including, in cases of theft of a trade secret, that the defendant rightfully knew the trade secret or that it was available to the defendant from a source other than the owner of the trade secret. [PL 2001, c. 383, §50 (NEW); PL 2001, c. 383, §156 (AFF).]

1.

[PL 2001, c. 383, §50 (RP); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §50 (RP); PL 2001, c. 383, §156 (AFF); PL 2003, c. 1, §1 (RP).]

3.

[PL 2001, c. 383, §50 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §58 (AMD). PL 1977, c. 671, §25 (AMD). PL 2001, c. 383, §50 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 426, §1 (AMD). PL 2003, c. 1, §1 (AMD).

§361-A. Permissible inferences against accused

1. Proof that the defendant was in exclusive possession of property that had recently been taken under circumstances constituting a violation of this chapter, section 405 or of chapter 27 gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant is guilty of the theft or robbery of the property, as the case may be, and proof that the theft or robbery occurred under circumstances constituting a violation of section 401 or 405 also gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant in exclusive possession of property recently so taken is guilty of the burglary or burglary of a motor vehicle, as the case may be.
[PL 2001, c. 667, Pt. D, §12 (AMD); PL 2001, c. 667, Pt. D, §36 (AFF).]

2. Proof that the defendant concealed unpurchased property stored, offered or exposed for sale while the defendant was still on the premises of the place where it was stored, offered or exposed or in a parking lot or public or private way immediately adjacent thereto gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant obtained or exercised unauthorized control over the property with the intent to deprive the owner thereof.
[PL 2001, c. 383, §51 (NEW); PL 2001, c. 383, §156 (AFF).]

3. Proof that a defendant possessed or controlled property of a person who, by reason of physical illness or mental illness or mental defect, including, but not limited to, dementia and other cognitive impairments, is manifestly unable or known by the defendant to be unable to make a reasonable judgment with respect to the disposition of the property or proof that a defendant obtained possession or control of the property by undue influence gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant obtained or exercised unauthorized control over the property with the intent to deprive the owner of the property. As used in this subsection, "undue influence" has the same meaning as in section 109, subsection 4.
[PL 2013, c. 414, §4 (NEW).]

SECTION HISTORY

PL 2001, c. 383, §51 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D12 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2013, c. 414, §4 (AMD).

§362. Classification of theft offenses

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §59 (AMD). PL 1977, c. 510, §§48,49 (AMD). PL 1981, c. 317, §10 (AMD). PL 1985, c. 239, §§1,2 (AMD). PL 1987, c. 12 (AMD). PL 1991, c. 548, §A8 (AMD). PL 1995, c. 224, §§3-5 (AMD). PL 1997, c. 495, §2 (AMD). PL 2001, c. 383, §52 (RP). PL 2001, c. 383, §156 (AFF). PL 2001, c. 389, §§3-5 (AMD). PL 2001, c. 426, §2 (AMD). PL 2003, c. 1, §§2-5 (AMD).

§363. Organized retail theft

1. A person is guilty of organized retail theft if the person commits 2 or more thefts of retail merchandise under this chapter, either as a principal or an accomplice, pursuant to a scheme or course of conduct engaged in by 2 or more persons involving thefts from 2 or more retail stores for the purpose of selling the stolen merchandise or conducting fraudulent returns of the stolen merchandise. Violation of this section is a Class C crime.
[PL 2015, c. 85, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 85, §2 (NEW).

CHAPTER 17

BURGLARY AND CRIMINAL TRESPASS

§401. Burglary

1. A person is guilty of burglary if:

A. The person enters or surreptitiously remains in a structure knowing that that person is not licensed or privileged to do so, with the intent to commit a crime therein. Violation of this paragraph is a Class C crime; or [PL 2001, c. 383, §53 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The person is armed with a firearm, or knows that an accomplice is so armed. Violation of this subparagraph is a Class A crime;

(2) The person intentionally or recklessly inflicts or attempts to inflict bodily injury on anyone during the commission of the burglary or an attempt to commit the burglary or in immediate flight after the commission or attempt. Violation of this subparagraph is a Class B crime;

(3) The person is armed with a dangerous weapon other than a firearm or knows that an accomplice is so armed. Violation of this subparagraph is a Class B crime;

(4) The violation is against a structure that is a dwelling place. Violation of this subparagraph is a Class B crime; or

(5) At the time of the burglary, the person has 2 or more prior convictions for any combination of the Maine Class A, B or C offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of this section or section 651, 702 or 703; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class B crime. [PL 2007, c. 476, §21 (AMD).]

[PL 2007, c. 476, §21 (AMD).]

2.
[PL 2001, c. 383, §54 (RP); PL 2001, c. 383, §156 (AFF).]

3. A person may be convicted both of burglary and of the crime that the person committed or attempted to commit after entering or remaining in the structure, but sentencing for both crimes is governed by section 1608.
[PL 2019, c. 113, Pt. C, §61 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §60 (AMD). PL 1977, c. 510, §§50-52 (AMD). PL 1985, c. 282, §4 (AMD). PL 1997, c. 477, §1 (AMD). PL 2001, c. 383, §§53-55 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §21 (AMD). PL 2019, c. 113, Pt. C, §61 (AMD).

§402. Criminal trespass

1. A person is guilty of criminal trespass if, knowing that that person is not licensed or privileged to do so, that person:

A. Enters any dwelling place. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Enters any structure that is locked or barred. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Enters any place from which that person may lawfully be excluded and that is posted in accordance with subsection 4 or in a manner reasonably likely to come to the attention of intruders or that is fenced or otherwise enclosed in a manner designed to exclude intruders. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

D. Remains in any place in defiance of a lawful order to leave that was personally communicated to that person by the owner or another authorized person. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

E. Enters any place in defiance of a lawful order not to enter that was personally communicated to that person by the owner or another authorized person. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

F. Enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains during hours in which visitors are permitted to enter or remain by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §56 (AMD); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §57 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 1979, c. 701, §23 (RP).]

4. For the purposes of subsection 1, paragraph C, property is posted if it is marked with signs or paint in compliance with this subsection. Proof that any posted sign or paint marking is actually seen by an intruder gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that such posted sign or paint marking is posted in a manner reasonably likely to come to the attention of intruders.

A. Signs must indicate that access is prohibited, that access is prohibited without permission of the landowner or the landowner's agent, or that access for a particular purpose is prohibited. [PL 1995, c. 529, §2 (NEW).]

B. [PL 2011, c. 432, §4 (AMD); MRSA T. 17-A §402, sub-4, ¶B (RP).]

B-1. Paint markings made pursuant to this paragraph mean that access is prohibited without permission of the landowner or the landowner's agent. Paint markings made pursuant to this paragraph must consist of a conspicuous vertical line at least one inch in width and at least 8 inches in length and must be placed so that the bottoms of the marks are not less than 3 feet from the ground or more than 5 feet from the ground at locations that are readily visible to any person approaching the property and no more than 100 feet apart. Paint markings may be placed on trees, posts or stones as described in this paragraph. The Department of Agriculture, Conservation and Forestry, Bureau of Forestry shall adopt rules to determine the color and type of paint that may be used to post property pursuant to this paragraph. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2011, c. 432, §5 (NEW); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

C. Signs or paint must mark the property at intervals no greater than 100 feet and at all vehicular access entries from a public road. [PL 1995, c. 529, §2 (NEW).]

D. Signs or paint markings are required only on the portion of the property where access is prohibited or limited. Signs or paint posted in accordance with this section have no effect on boundaries of property and do not constitute claims of possession or adverse use in accordance with state law. [PL 1995, c. 529, §2 (NEW).]

D-1. Notwithstanding any other provision of this section, a landowner who posts that landowner's land by paint markings and who intends to prohibit access without permission of the landowner or the landowner's agent or intends to prohibit access for a particular purpose may do this by posting in a prominent place one or more qualifying signs that by words or symbols set forth the nature of the prohibition. The landowner need not post the qualifying signs at 100-foot intervals. [PL 1999, c. 115, §1 (NEW).]

E. A person commits criminal mischief and is subject to prosecution under section 806 if that person, without permission of the owner or owner's agent:

(1) Knowingly posts the property of another with a sign or paint mark indicating that access is prohibited, that access is prohibited without permission or that access for a particular purpose is prohibited; or

(2) Removes, mutilates, defaces or destroys a sign or paint mark placed for purposes of this section. [PL 1995, c. 529, §2 (NEW).]

Nothing in this subsection limits any manner of posting reasonably likely to come to the attention of intruders.

[PL 2011, c. 432, §§4, 5 (AMD); PL 2011, c. 657, Pt. W, §§5, 7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 128 (AMD). PL 1977, c. 510, §53 (AMD). PL 1979, c. 701, §23 (RPR). PL 1981, c. 317, §11 (AMD). PL 1989, c. 793 (AMD). PL 1995, c. 529, §§1, 2 (AMD). PL 1999, c. 115, §1 (AMD). PL 2001, c. 383, §§56-58 (AMD). PL 2001, c. 383, §156 (AFF). PL 2011, c. 432, §§4, 5 (AMD). PL 2011, c. 657, Pt. W, §§5, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV).

§402-A. Aggravated criminal trespass

1. A person is guilty of aggravated criminal trespass if, knowing that that person is not licensed or privileged to do so, that person enters a dwelling place and:

A. While in the dwelling place violates any provision of chapter 9 or chapter 11; or [PL 1999, c. 434, §1 (NEW).]

B. At the time of the offense, the person has 2 or more prior convictions for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are: burglary in a dwelling place or criminal trespass in a dwelling place. Section 9-A governs the use of prior convictions when determining a sentence. [PL 2007, c. 476, §22 (AMD).]

[PL 2007, c. 476, §22 (AMD).]

2. Aggravated criminal trespass is a Class C crime.

[PL 1999, c. 434, §1 (NEW).]

SECTION HISTORY

PL 1999, c. 434, §1 (NEW). PL 2001, c. 383, §59 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §22 (AMD).

§403. Possession or transfer of burglar's tools

1. A person is guilty of possession or transfer of burglar's tools if that person:

A. Possesses or makes any tool, implement, instrument or other article that is adapted, designed or commonly used for advancing or facilitating crimes involving unlawful entry into property or crimes involving forcible breaking of safes or other containers or depositories of property, including, but not limited to, an electronic device used as a code grabber or a master key designed to fit more than one lock, with intent to use such tool, implement, instrument or other article to commit any such criminal offense. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §60 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Transfers or possesses with the intent to transfer any device described in paragraph A that that person knows is designed or primarily useful for the commission of a crime described in paragraph A. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §60 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §60 (AMD); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §61 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1997, c. 372, §1 (RPR). PL 2001, c. 383, §§60,61 (AMD). PL 2001, c. 383, §156 (AFF).

§404. Trespass by motor vehicle

1. A person is guilty of trespass by motor vehicle if, knowing that that person has no right to do so, that person intentionally or knowingly permits a motor vehicle belonging to that person or subject to that person's control to enter or remain in or on:

A. The residential property of another; [PL 1995, c. 529, §3 (AMD).]

B. The nonresidential property of another for a continuous period in excess of 24 hours; or [PL 1995, c. 529, §3 (AMD).]

C. The nonresidential property of another that is:

(1) Posted in accordance with section 402, subsection 4;

(2) Posted to prohibit access by motor vehicles; or

(3) Posted in a manner reasonably likely to come to the attention of intruders.

For purposes of this paragraph, property is posted to prohibit access by motor vehicles if the property owner or the owner's agent has posted the property boundaries at points where they are

crossed by roads or trails with signs indicating that motor vehicle access is prohibited or with paint markings that comply with section 402, subsection 4, paragraph B. [PL 1995, c. 529, §3 (NEW).]
[PL 1995, c. 529, §3 (AMD).]

2. Proof that the defendant was the registered owner of the vehicle gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the defendant was the person who permitted the vehicle to enter or remain on the property.
[PL 2001, c. 383, §62 (AMD); PL 2001, c. 383, §156 (AFF).]

3. Trespass by motor vehicle is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1995, c. 529, §3 (AMD). PL 2001, c. 383, §62 (AMD). PL 2001, c. 383, §156 (AFF).

§405. Burglary of motor vehicle

1. A person is guilty of burglary of a motor vehicle if:

A. The person enters a motor vehicle, knowing that the person is not licensed or privileged to do so, with the intent to commit a crime therein. Violation of this paragraph is a Class D crime; or [PL 2003, c. 711, Pt. A, §4 (NEW).]

B. The person violates paragraph A, and the person forcibly enters a motor vehicle that is locked. Violation of this paragraph is a Class C crime. [PL 2003, c. 711, Pt. A, §4 (NEW).]
[PL 2003, c. 711, Pt. A, §4 (RPR).]

2.

[PL 2003, c. 711, Pt. A, §4 (RP).]

2-A. As used in subsection 1, "forcibly" means with the use of a burglar's tool or by the use of physical force that damages or destroys the motor vehicle. "Burglar's tool" means any device described in section 403, subsection 1, paragraph A.
[PL 2003, c. 711, Pt. A, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 263 (NEW). PL 2003, c. 711, §A4 (RPR).

CHAPTER 18

COMPUTER CRIMES

§431. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 620 (NEW).]

1. "Access" means to gain logical entry into, instruct, communicate with, store data in or retrieve data from any computer resource.
[PL 1989, c. 620 (NEW).]

2. "Computer" means an electronic, magnetic, optical, electrochemical or other high-speed data processing device performing logical, arithmetic or storage functions and includes any data storage device or communications facility directly related to or operating in conjunction with the device.
[PL 2013, c. 297, §1 (AMD).]

3. "Computer information" means a representation of information, knowledge, facts, concepts or instructions that are confidential or proprietary, are being prepared or have been prepared from an organized set of data and are located in computer memory or on magnetic, optical or mechanical media transferable directly to or useable directly by a computer as a source of data or instructions.
[PL 1989, c. 620 (NEW).]

4. "Computer network" means a combination of one or more computers and communication facilities with the capability to transmit information among the devices or computers.
[PL 1989, c. 620 (NEW).]

5. "Computer program" means an ordered set of data representing coded instructions or statements that, when executed by a computer, cause the computer to process data.
[PL 1989, c. 620 (NEW).]

6. "Computer software" means a set of computer programs, procedures and associated documentation used in the operation of a computer system.
[PL 1989, c. 620 (NEW).]

7. "Computer system" means any combination of a computer or computers with the documentation, computer software or physical facilities supporting the computer.
[PL 1989, c. 620 (NEW).]

8. "Computer resource" means a computer program, computer software, computer system, computer network, computer information or any combination thereof.
[PL 1989, c. 620 (NEW).]

9. "Computer virus" means any computer instruction, information, data or program that degrades the performance of a computer resource; disables, damages or destroys a computer resource; or attaches itself to another computer resource and executes when the host computer program, data or instruction is executed or when some other event takes place in the host computer resource, data or instruction.
[PL 1989, c. 620 (NEW).]

9-A. "Criminal justice agency" means a governmental agency of the State or any subunit of a governmental agency of the State at any governmental level that performs the administration of criminal justice pursuant to statute. "Criminal justice agency" includes the Department of the Attorney General and district attorneys' offices. As used in this subsection, "administration of criminal justice" means activities relating to the investigation of all or specific crimes and the prosecution of offenders.
[PL 2013, c. 519, §7 (NEW).]

10. "Damage" means to destroy, alter, disrupt, delete, add, modify, or rearrange any computer resource by any means.
[PL 1989, c. 620 (NEW).]

10-A. "Data storage device" means any computer or accessory device, designed for or capable of storing digital media or data, including, but not limited to, installed or transportable hard drives, memory cards and servers.
[PL 2013, c. 297, §2 (NEW).]

11. "Not authorized" and "unauthorized" mean not having consent or permission of the owner, or person licensed or authorized by the owner to grant consent or permission, to access or use any computer resource, or accessing or using any computer resource in a manner exceeding the consent or permission.
[PL 1989, c. 620 (NEW).]

SECTION HISTORY

PL 1989, c. 620 (NEW). PL 2013, c. 297, §§1, 2 (AMD). PL 2013, c. 519, §7 (AMD).

§432. Criminal invasion of computer privacy

1. A person is guilty of criminal invasion of computer privacy if the person intentionally accesses any computer resource knowing that the person is not authorized to do so.
[PL 1989, c. 620 (NEW).]

2. Criminal invasion of computer privacy is a Class D crime.
[PL 1989, c. 620 (NEW).]

SECTION HISTORY

PL 1989, c. 620 (NEW).

§433. Aggravated criminal invasion of computer privacy

1. A person is guilty of aggravated criminal invasion of computer privacy if the person:

A. Intentionally makes an unauthorized copy of any computer program, computer software or computer information, knowing that the person is not authorized to do so; [PL 1989, c. 620 (NEW).]

B. Intentionally or knowingly damages any computer resource of another person, having no reasonable ground to believe that the person has the right to do so; or [PL 1989, c. 620 (NEW).]

C. Intentionally or knowingly introduces or allows the introduction of a computer virus into any computer resource, having no reasonable ground to believe that the person has the right to do so. [PL 1989, c. 620 (NEW).]
[PL 1989, c. 620 (NEW).]

2. Aggravated criminal invasion of computer privacy is a Class C crime.
[PL 1989, c. 620 (NEW).]

SECTION HISTORY

PL 1989, c. 620 (NEW).

§434. Prosecution of invasion of computer privacy

1. The crime of criminal invasion of computer privacy as defined in section 432 may be prosecuted and punished in:

A. The county in which the defendant was located when the defendant accessed the computer resource; or [PL 2011, c. 133, §1 (NEW).]

B. A county in which the computer resource was located. [PL 2011, c. 133, §1 (NEW).]
[PL 2011, c. 133, §1 (NEW).]

2. The crime of aggravated criminal invasion of computer privacy as defined in section 433 may be prosecuted and punished in:

A. The county in which the defendant was located when the defendant copied the computer program, computer software or computer information; [PL 2011, c. 133, §1 (NEW).]

B. The county in which the defendant was located when the defendant damaged the computer resource; [PL 2011, c. 133, §1 (NEW).]

C. The county in which the defendant was located when the defendant introduced or allowed the introduction of a computer virus into the computer resource; or [PL 2011, c. 133, §1 (NEW).]

D. A county in which the computer resource was located. [PL 2011, c. 133, §1 (NEW).]
[PL 2011, c. 133, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 133, §1 (NEW).

§435. Added jurisdiction to prosecute

1. In addition to the State's having jurisdiction pursuant to section 7 to convict a person under section 432 or 433, the State has jurisdiction to convict a person under this chapter when that person is physically located outside of this State and the prohibited conduct:

A. Occurs outside of this State and the victim of the crime is a resident of this State at the time of the crime; and [PL 2011, c. 377, §1 (NEW).]

B. Is sufficient under this section to constitute a crime in this State. [PL 2011, c. 377, §1 (NEW).]
[PL 2011, c. 377, §1 (NEW).]

2. As used in this section, "resident" means a person who lives in this State either permanently or for an extended period. "Extended period" includes, but is not limited to, the period of time a student attends a school or college and the period of time a person serving in the Armed Forces of the United States is stationed in this State.
[PL 2011, c. 377, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 377, §1 (NEW).

§436. Permanent destruction of computer data on a computer used in the commission of a crime

1. If a person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or found not criminally responsible of a violation of this Title, the State, after all appeal periods have run and those proceedings have concluded, may permanently destroy the computer data on any computer that was used to commit or facilitate the commission of that violation or cause the computer data to be permanently destroyed through the removal and destruction of any part of the computer in the possession of the State on which the computer data are stored.
[PL 2013, c. 297, §3 (NEW).]

2. Notwithstanding subsection 1, a criminal justice agency, prior to the destruction of computer data, may extract and provide computer data to a person if:

A. Prior to the conclusion of criminal prosecution in the matter involving the computer data, the person provides written notification to the criminal justice agency having custody of the computer on which the computer data are stored that the person is interested in obtaining that computer data; [PL 2013, c. 297, §3 (NEW).]

B. The person either has an ownership interest in the computer data or wants the computer data only for the sentimental value of the data. When computer data are requested only for the sentimental value of the data, the person must state such in a written affidavit; [PL 2013, c. 297, §3 (NEW).]

C. The computer data that are the subject of the person's request may be lawfully disseminated; [PL 2013, c. 297, §3 (NEW).]

D. The computer data that are the subject of the person's request are not confidential by law; [PL 2013, c. 297, §3 (NEW).]

E. The computer data that are the subject of the request are specifically identified by the person making the request. For the purposes of this paragraph, "specifically identified" means identified with reasonable precision and not merely categorically; [PL 2013, c. 297, §3 (NEW).]

F. The criminal justice agency, in the judgment of the chief officer of the agency, determines the agency has the technological expertise, resources and personnel available to accommodate the request or to cause the request to be accommodated. The chief officer of the agency may consider whether there is a 3rd-party vendor that can accommodate the request if the chief officer determines the agency cannot accommodate the request for reasons provided in this paragraph. The chief officer of the agency subject to the request shall refer the request to an appropriate 3rd-party vendor

for processing upon receipt by the chief officer of the agency of full payment from the requestor for the amount charged by the vendor to accommodate the request for information; and [PL 2013, c. 297, §3 (NEW).]

G. Notwithstanding any provision of law to the contrary, the person requesting the computer data makes advance payment for the time and costs that the criminal justice agency estimates will be needed for the requested computer data to be extracted and provided by the agency or caused by the agency to be extracted and provided to the person. [PL 2013, c. 297, §3 (NEW).]

If the conditions identified in paragraphs A to G of this subsection are not met, the computer data that are the subject of the request may be permanently destroyed in accordance with subsection 1.

The chief officer of the criminal justice agency that is subject to a request under this subsection shall respond to the requestor within 60 days from the date the request was received by the chief officer. The chief officer's response must include but is not limited to what actions if any the agency will take regarding the computer data identified in the request.
[PL 2013, c. 297, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 297, §3 (NEW).

§437. Permissible destruction or transfer of ownership to the State of a computer used in the commission of a crime

1. Notwithstanding any provision of law to the contrary and except as provided in subsection 3, the State may either permanently destroy or assume ownership of a computer that was used in the commission of a crime or that facilitated the commission of a crime if:

A. A person is convicted upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or is found not criminally responsible of a crime committed using, or that was facilitated through the use of, the computer and all appeal periods have run and those proceedings have concluded; [PL 2013, c. 297, §3 (NEW).]

B. The opportunity for the computer to be forfeited to the State through proceedings at the presentencing stage has passed; and [PL 2013, c. 297, §3 (NEW).]

C. A person having a lawful property interest in the computer has not notified the State in writing within 6 months following a conviction upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or a finding of not criminally responsible that the person wants to take possession of the computer. The written notification must be made to the criminal justice agency having custody of the computer. [PL 2013, c. 297, §3 (NEW).]

If the State assumes ownership of a computer pursuant to this subsection, all computer data stored on the computer must be permanently destroyed by the State, or caused by the State to be permanently destroyed, in accordance with section 436.
[PL 2013, c. 297, §3 (NEW).]

2. A person who has a lawful property interest in a computer that was used to commit a crime or that facilitated the commission of a crime may take possession of the computer if:

A. The person notifies the State in writing within 6 months following a conviction upon a finding of guilt or upon the acceptance of a plea of guilty or nolo contendere or a finding of not criminally responsible that a person committed a crime using, or that was facilitated by the use of, the computer and all appeal periods have run and those proceedings have concluded, that the person wants to take possession of that computer. The written notification must be made to the criminal justice agency having custody of the computer; [PL 2013, c. 297, §3 (NEW).]

B. The crime that was committed using, or that was facilitated through the use of, the computer is not a crime identified in chapter 12; and [PL 2013, c. 297, §3 (NEW).]

C. All computer data stored on the computer have been permanently destroyed pursuant to section 436. [PL 2013, c. 297, §3 (NEW).]

[PL 2013, c. 297, §3 (NEW).]

3. Notwithstanding subsection 2, a person having a lawful property interest in a computer may not take possession of that computer if the crime that was committed using, or that was facilitated through the use of, the computer is a crime identified in chapter 12. Notwithstanding subsection 1, the computer may be permanently destroyed by the State, or caused by the State to be permanently destroyed, in accordance with section 436 if the crime that was committed using, or that was facilitated through the use of, the computer is a crime identified in chapter 12.

When the State receives a notification from a person who wishes to take possession of a computer pursuant to subsection 2, the State must respond to that notification within 60 days from the date the notification was received by the State. The State's response must include but is not limited to what actions, if any, the State will take regarding the computer identified in the notification.

[PL 2013, c. 297, §3 (NEW).]

SECTION HISTORY

PL 2013, c. 297, §3 (NEW).

CHAPTER 19

FALSIFICATION IN OFFICIAL MATTERS

§451. Perjury

1. A person is guilty of perjury if he makes:

A. In any official proceeding, a false material statement under oath or affirmation, or swears or affirms the truth of a material statement previously made, and he does not believe the statement to be true; or [PL 1975, c. 740, §61 (AMD).]

B. Inconsistent material statements, in the same official proceeding, under oath or affirmation, both within the period of limitations, one of which statements is false and not believed by him to be true. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 740, §61 (AMD).]

2. In a prosecution under subsection 1, paragraph B, it need not be alleged or proved which of the statements is false but only that one or the other was false and not believed by the person to be true.

[PL 1999, c. 13, §1 (AMD).]

3. It is an affirmative defense to prosecution under this section that the defendant retracted the falsification in the course of the official proceeding in which it was made, and before it became manifest that the falsification was or would have been exposed.

[PL 1981, c. 317, §12 (AMD).]

3-A. In a prosecution under subsection 1, paragraph A, evidence that the allegedly false testimony in the prior official proceeding was contradicted by evidence in that proceeding may not be a sufficient basis by itself to sustain a conviction for perjury.

[PL 1981, c. 317, §13 (NEW).]

4. It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not a competent witness in making the

statement or was disqualified from doing so. A document purporting to be made upon oath or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed.
[PL 1975, c. 740, §62 (AMD).]

5. As used in this section:

A. "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental body or official authorized by law to take evidence under oath or affirmation including a notary or other person taking evidence in connection with any such proceeding; [PL 1975, c. 499, §1 (NEW).]

B. "Material" means capable of affecting the course or outcome of the proceeding. [PL 1975, c. 499, §1 (NEW).]
[PL 1975, c. 499, §1 (NEW).]

6. Perjury is a Class C crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§61,62 (AMD). PL 1979, c. 512, §27 (AMD). PL 1981, c. 317, §§12,13 (AMD). PL 1999, c. 13, §1 (AMD).

§452. False swearing

1. A person is guilty of false swearing if:

A. The person makes a false statement under oath or affirmation or swears or affirms the truth of such a statement previously made and the person does not believe the statement to be true, provided

(1) the falsification occurs in an official proceeding as defined in section 451, subsection 5, paragraph A, or is made with the intention to mislead a public servant performing the public servant's official duties; or

(2) the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or [RR 2009, c. 2, §38 (COR).]

B. The person makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by the person to be true. In a prosecution under this subsection, it need not be alleged or proved which of the statements is false, but only that one or the other was false and not believed by the defendant to be true. [RR 2009, c. 2, §38 (COR).]
[RR 2009, c. 2, §38 (COR).]

2. It is an affirmative defense to prosecution under this section that, when made in an official proceeding, the defendant retracted the falsification in the course of such proceeding before it became manifest that the falsification was or would have been exposed.
[PL 1981, c. 317, §14 (AMD).]

2-A. In a prosecution under subsection 1, paragraph A, evidence that the allegedly false testimony or statement in the prior official proceeding or before a notary or other person authorized to administer oaths was contradicted by evidence in that proceeding may not be a sufficient basis by itself to sustain a conviction for false swearing.
[PL 1983, c. 450, §3 (AMD).]

3. It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not a competent witness in making the statement or was disqualified from doing so. A document purporting to be made upon oaths or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed.

[PL 1975, c. 740, §63 (AMD).]

4. False swearing is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §63 (AMD). PL 1979, c. 512, §28 (AMD). PL 1981, c. 317, §§14,15 (AMD). PL 1983, c. 450, §3 (AMD). RR 2009, c. 2, §38 (COR).

§453. Unsworn falsification

1. A person is guilty of unsworn falsification if:

A. He makes a written false statement which he does not believe to be true, on or pursuant to, a form conspicuously bearing notification authorized by statute or regulation to the effect that false statements made therein are punishable; [PL 1981, c. 317, §16 (AMD).]

B. With the intent to deceive a public servant in the performance of his official duties, he

(1) makes any written false statement which he does not believe to be true, provided, however, that this subsection does not apply in the case of a written false statement made to a law enforcement officer by a person then in official custody and suspected of having committed a crime, except as provided in paragraph C; or

(2) knowingly creates, or attempts to create, a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or

(3) submits or invites reliance on any sample, specimen, map, boundary mark or other object which he knows to be false; or [PL 1981, c. 317, §§17, 18 (AMD).]

C. With the intent to conceal his identity from a law enforcement officer while under arrest for a crime, after having been warned that it is a crime to give false information concerning identity, he gives false information concerning his name or date of birth, including, but not limited to, a signature. [PL 1981, c. 317, §19 (NEW).]
[PL 1981, c. 317, §§16-19 (AMD).]

2. Unsworn falsification is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 317, §§16-19 (AMD).

§454. Tampering with a witness, informant, juror or victim

1. A person is guilty of tampering with a witness or informant if, believing that an official proceeding, as defined in section 451, subsection 5, paragraph A, or an official criminal investigation is pending or will be instituted, the actor:

A. Induces or otherwise causes, or attempts to induce or cause, a witness or informant:

(1) To testify or inform in a manner the actor knows to be false; or

(2) To withhold testimony, information or evidence.

Violation of this paragraph is a Class C crime; [PL 2003, c. 143, §5 (AMD).]

B. Uses force, violence or intimidation, or promises, offers or gives pecuniary benefit with the intent to induce a witness or informant:

(1) To withhold testimony, information or evidence;

(2) To refrain from attending a criminal proceeding or criminal investigation; or

(3) To refrain from attending any other proceeding or investigation to which the witness or informant has been summoned by legal process.

Violation of this paragraph is a Class C crime; or [PL 2001, c. 383, §63 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Solicits, accepts or agrees to accept pecuniary benefit for committing an act specified in paragraph A, subparagraph (1), or in paragraph B, subparagraph (1), (2) or (3). Violation of this paragraph is a Class C crime. [PL 2001, c. 383, §63 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2003, c. 143, §5 (AMD).]

1-A. A person is guilty of tampering with a juror if the actor:

A. Contacts by any means a person who is a juror or any other person that the actor believes is in a position to influence a juror and the actor does so with the intention of influencing the juror in the performance of the juror's duty. Violation of this paragraph is a Class C crime; or [PL 2001, c. 383, §63 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Violates paragraph A and the proceeding the juror is involved in is a criminal proceeding for murder or a Class A crime. Violation of this paragraph is a Class B crime. [PL 2001, c. 383, §63 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §63 (AMD); PL 2001, c. 383, §156 (AFF).]

1-B. A person is guilty of tampering with a victim if, believing that an official proceeding, as defined in section 451, subsection 5, paragraph A, or an official criminal investigation is pending or will be instituted, the actor:

A. Induces or otherwise causes, or attempts to induce or cause, a victim:

(1) To testify or inform falsely; or

(2) To withhold testimony, information or evidence.

Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §63 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Uses force, violence or intimidation, or promises, offers or gives pecuniary benefit with the intent to induce a victim:

(1) To withhold testimony, information or evidence;

(2) To refrain from attending a criminal proceeding or criminal investigation; or

(3) To refrain from attending any other proceeding or investigation to which the victim has been summoned by legal process.

Violation of this paragraph is a Class B crime; or [PL 2001, c. 383, §63 (NEW); PL 2001, c. 383, §156 (AFF).]

C. Solicits, accepts or agrees to accept pecuniary benefit for committing an act specified in paragraph A, subparagraph (1), or in paragraph B, subparagraph (1), (2) or (3).

Violation of this paragraph is a Class B crime. [PL 2001, c. 383, §63 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §63 (NEW); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §63 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 1989, c. 300 (RP).]

4.

[PL 2001, c. 383, §63 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §54 (RPR). PL 1983, c. 352, §1 (AMD). PL 1989, c. 300 (AMD). PL 1989, c. 878, §B16 (AMD). PL 2001, c. 383, §63 (AMD). PL 2001, c. 383, §156 (AFF). PL 2003, c. 143, §5 (AMD).

§455. Falsifying physical evidence

1. A person is guilty of falsifying physical evidence if, believing that an official proceeding as defined in section 451, subsection 5, paragraph A, or an official criminal investigation, is pending or will be instituted, he:

A. Alters, destroys, conceals or removes any thing relevant to such proceeding or investigation with intent to impair its verity, authenticity or availability in such proceeding or investigation; or [PL 1975, c. 499, §1 (NEW).]

B. Presents or uses any thing which he knows to be false with intent to deceive a public servant who is or may be engaged in such proceeding or investigation. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Falsifying physical evidence is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§456. Tampering with public records or information

1. A person is guilty of tampering with public records or information if he:

A. Knowingly makes a false entry in, or false alteration of any record, document or thing belonging to, or received or kept by the government, or required by law to be kept by others for the information of the government; or [PL 1975, c. 499, §1 (NEW).]

B. Presents or uses any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in subsection 1, paragraph A; or [PL 1975, c. 499, §1 (NEW).]

C. Intentionally destroys, conceals, removes or otherwise impairs the verity or availability of any such record, document or thing, knowing that he lacks authority to do so. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Tampering with public records or information is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§457. Impersonating a public servant

1. A person is guilty of impersonating a public servant if he falsely pretends to be a public servant and engages in any conduct in that capacity with the intent to deceive anyone.

[PL 1975, c. 499, §1 (NEW).]

2. It is no defense to a prosecution under this section that the office the person pretended to hold did not in fact exist.

[PL 1975, c. 499, §1 (NEW).]

3. Impersonating a public servant is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§458. Retaliation against a witness, informant, victim or juror

A person is guilty of retaliation against a witness, informant, victim or juror if, believing that another person is participating or has participated as a witness, informant, victim or juror in an official proceeding, as defined in section 451, subsection 5, paragraph A, or in an official criminal investigation, the actor engages in criminal conduct with the intent to retaliate for that other person's role in the official proceeding or official criminal investigation. Violation of this section is a Class C crime. [PL 2019, c. 309, §1 (NEW).]

SECTION HISTORY

PL 2019, c. 309, §1 (NEW).

CHAPTER 21

OFFENSES AGAINST PUBLIC ORDER

§501. Disorderly conduct

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§64,65 (AMD). PL 1977, c. 510, §55 (AMD). PL 1981, c. 37, §§1,2 (AMD). PL 1989, c. 266 (AMD). PL 1995, c. 258, §1 (AMD). PL 2007, c. 144, §2 (RP).

§501-A. Disorderly conduct

1. A person is guilty of disorderly conduct if:

A. In a public place, the person intentionally or recklessly causes annoyance to others by intentionally:

(1) Making loud and unreasonable noises;

(2) Activating a device, or exposing a substance, that releases noxious and offensive odors; or

(3) Engaging in fighting, without being licensed or privileged to do so; [PL 2007, c. 144, §3 (NEW).]

B. In a public or private place, the person knowingly accosts, insults, taunts or challenges any person with offensive, derisive or annoying words, or by gestures or other physical conduct, that would in fact have a direct tendency to cause a violent response by an ordinary person in the situation of the person so accosted, insulted, taunted or challenged; [PL 2007, c. 144, §3 (NEW).]

C. In a private place, the person makes loud and unreasonable noise that can be heard by another person, who may be a law enforcement officer, as unreasonable noise in a public place or in another private place, after having been ordered by a law enforcement officer to cease the noise; or [PL 2007, c. 144, §3 (NEW).]

D. In a private or public place on or near property where a funeral, burial or memorial service is being held, the person knowingly accosts, insults, taunts or challenges any person in mourning and in attendance at the funeral, burial or memorial service with unwanted, obtrusive communications

by way of offensive, derisive or annoying words, or by gestures or other physical conduct, that would in fact have a direct tendency to cause a violent response by an ordinary person in mourning and in attendance at a funeral, burial or memorial service. [PL 2007, c. 144, §3 (NEW).]

[PL 2007, c. 144, §3 (NEW).]

2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Public place" means a place to which the public at large or a substantial group has access, including but not limited to:

(1) Public ways as defined in section 505;

(2) Schools and government-owned custodial facilities; and

(3) The lobbies, hallways, lavatories, toilets and basement portions of apartment houses, hotels, public buildings and transportation terminals. [PL 2007, c. 144, §3 (NEW).]

B. "Private place" means any place that is not a public place. [PL 2007, c. 144, §3 (NEW).]

[PL 2007, c. 144, §3 (NEW).]

3. Disorderly conduct is a Class E crime.

[PL 2007, c. 144, §3 (NEW).]

SECTION HISTORY

PL 2007, c. 144, §3 (NEW).

§502. Failure to disperse

1. When 6 or more persons are participating in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, annoyance, or alarm, a law enforcement officer may order the participants and others in the immediate vicinity to disperse.

[PL 1975, c. 499, §1 (NEW).]

2. A person is guilty of failure to disperse if the person knowingly fails to comply with an order made pursuant to subsection 1 and:

A. The person is a participant in the course of disorderly conduct. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §64 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person is in the immediate vicinity of the disorderly conduct. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §64 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §64 (RPR); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §65 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §§64,64 (AMD). PL 2001, c. 383, §156 (AFF).

§503. Riot

1. A person is guilty of riot if, together with 5 or more other persons, he engages in disorderly conduct;

A. With intent imminently to commit or facilitate the commission of a crime involving physical injury or property damage against persons who are not participants; or [PL 1975, c. 499, §1 (NEW).]

B. When he or any other participant to his knowledge uses or intends to use a firearm or other dangerous weapon in the course of the disorderly conduct. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Riot is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§504. Unlawful assembly

A person is guilty of unlawful assembly if: [PL 1975, c. 499, §1 (NEW).]

1. He assembles with 5 or more other persons with intent to engage in conduct constituting a riot; or being present at an assembly that either has or develops a purpose to engage in conduct constituting a riot, he remains there with intent to advance that purpose; and
[PL 1975, c. 499, §1 (NEW).]

2. He knowingly fails to comply with an order to disperse given by a law enforcement officer to the assembly.
[PL 1975, c. 499, §1 (NEW).]

3. Unlawful assembly is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§505. Obstructing public ways

1. A person is guilty of obstructing public ways if he unreasonably obstructs the free passage of foot or vehicular traffic on any public way, and refuses to cease or remove the obstruction upon a lawful order to do so given him by a law enforcement officer.
[PL 1975, c. 499, §1 (NEW).]

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, a way upon which the public has access as invitees or licensees or a way under the control of park commissioners or a body having like powers.
[PL 2017, c. 432, Pt. C, §2 (AMD).]

3. Obstructing public ways is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2015, c. 358, §2 (AMD). PL 2017, c. 432, Pt. C, §2 (AMD).

§506. Harassment by telephone or by electronic communication device

1. A person is guilty of harassment by telephone or by electronic communication device if:

A. By means of telephone or electronic communication device the person makes any comment, request, suggestion or proposal that is, in fact, offensively coarse or obscene, without the consent of the person called or contacted. Violation of this paragraph is a Class E crime; [PL 2017, c. 397, §1 (AMD).]

A-1. By means of telephone or electronic communication device the person, with the intent to cause affront or alarm or for the purpose of arousing or gratifying sexual desire, sends an image or video of a sexual act as defined in section 251, subsection 1, paragraph C or of the actor's or another person's genitals and:

(1) The person called or contacted is in fact under 14 years of age;

(2) The person called or contacted is in fact 14 or 15 years of age and the actor is at least 5 years older than the person called or contacted; or

(3) The person called or contacted suffers from a mental disability that is reasonably apparent or known to the actor.

Violation of this paragraph is a Class D crime; [PL 2017, c. 397, §1 (NEW).]

A-2. By means of telephone or electronic communication device the person sends an image or a video of a sexual act as defined in section 251, subsection 1, paragraph C or of the actor's or another person's genitals without the consent of the person called or contacted after the person called or contacted has notified the actor, in writing or otherwise, that the person does not consent to receiving such images or videos. Violation of this paragraph is a Class E crime; [PL 2017, c. 397, §1 (NEW).]

B. The person makes a telephone call or makes a call or contact by means of an electronic communication device, whether or not oral or written conversation ensues, without disclosing the person's identity and with the intent to annoy, abuse, threaten or harass any person at the called or contacted number or account. Violation of this paragraph is a Class E crime; [PL 2017, c. 397, §1 (AMD).]

C. The person makes or causes the telephone or electronic communication device of another repeatedly or continuously to ring or activate or receive data, with the intent to harass any person at the called or contacted number or account. Violation of this paragraph is a Class E crime; [PL 2017, c. 397, §1 (AMD).]

D. The person makes repeated telephone calls or repeated calls or contacts by means of an electronic communication device, during which oral or written conversation ensues, with the intent to harass any person at the called or contacted number or account. Violation of this paragraph is a Class E crime; or [PL 2017, c. 397, §1 (AMD).]

E. The person knowingly permits any telephone or electronic communication device under the person's control to be used for any purpose prohibited by this section. Violation of this paragraph is a Class E crime. [PL 2017, c. 397, §1 (AMD).]

[PL 2017, c. 397, §1 (AMD).]

2. The crime defined in this section may be prosecuted and punished in the county in which the defendant was located when the defendant used the telephone or electronic communication device, or in the county in which the telephone called or made to ring or the electronic communication device called or made to ring or be activated or receive data by the defendant was located.

[PL 2011, c. 464, §14 (AMD); PL 2011, c. 464, §30 (AFF).]

2-A. As used in this section, "electronic communication device" means any electronic or digital product that communicates at a distance by electronic transmission impulses or by fiber optics, including any software capable of sending and receiving communication, allowing a person to electronically engage in the conduct prohibited under this section.

[PL 2011, c. 464, §14 (NEW); PL 2011, c. 464, §30 (AFF).]

3.

[PL 2017, c. 397, §1 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §66 (RPR). PL 1981, c. 317, §20 (AMD). PL 2011, c. 464, §14 (AMD). PL 2011, c. 464, §30 (AFF). PL 2017, c. 397, §1 (AMD).

§506-A. Harassment

1. A person is guilty of harassment if, without reasonable cause:

A. The person engages in any course of conduct with the intent to harass, torment or threaten another person:

(1) After having been notified, in writing or otherwise, not to engage in such conduct by:

(a) Any sheriff, deputy sheriff, constable, police officer or justice of the peace. The notification not to engage in such conduct expires one year from the date of issuance; or

(b) A court in a protective order issued under Title 5, section 4654 or 4655 or Title 19-A, section 4006 or 4007; or

(2) If the person is an adult in the custody or under the supervision of the Department of Corrections, after having been forbidden to engage in such conduct by the Commissioner of Corrections, the chief administrative officer of the facility, the correctional administrator for the region or their designees.

Violation of this paragraph is a Class E crime; or [PL 2009, c. 246, §1 (AMD).]

B. The person violates paragraph A and, at the time of the harassment, the person has 2 or more prior Maine convictions under this section in which the victim was the same person or a member of that victim's immediate family or for engaging in substantially similar conduct to that contained in this paragraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §23 (AMD).]

[PL 2009, c. 246, §1 (AMD).]

2.

[PL 2001, c. 383, §67 (RP); PL 2001, c. 383, §156 (AFF).]

3. For the purposes of this section, "immediate family" means spouse, parent, child, sibling, stepchild and stepparent.

[PL 1991, c. 566, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 740, §67 (NEW). PL 1981, c. 456, §A59 (AMD). PL 1987, c. 736, §36 (AMD). PL 1991, c. 566, §§2,3 (AMD). PL 1993, c. 475, §§4,5 (AMD). PL 1995, c. 694, §D24 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 267, §§1,2 (AMD). PL 1997, c. 267, §3 (AFF). PL 2001, c. 383, §§66,67 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §23 (AMD). PL 2009, c. 246, §1 (AMD).

§506-B. Violation of protective order

1. Violation of a protection from harassment order issued under Title 5, section 4654 or 4655, subsection 1, paragraphs A to C-1, is a Class D crime as provided in Title 5, section 4659, subsection 1.

[PL 1993, c. 475, §6 (NEW).]

2. Violation of a protective order in crimes between family members issued under Title 15, section 321 is a Class D crime as provided in Title 15, section 321, subsection 6.

[PL 1993, c. 475, §6 (NEW).]

3. Violation of a protection from abuse order issued under Title 19-A, section 4006 or 4007, subsection 1, paragraphs A to G, is a Class D crime as provided in Title 19-A, section 4011, subsection 1 or a Class C crime as provided in Title 19-A, section 4011, subsection 4.

[PL 2005, c. 207, §1 (AMD).]

SECTION HISTORY

PL 1993, c. 475, §6 (NEW). PL 1995, c. 694, §D25 (AMD). PL 1995, c. 694, §E2 (AFF). PL 2005, c. 207, §1 (AMD).

§507. Desecration and defacement

1. A person is guilty of desecration and defacement if he intentionally desecrates any public monument or structure, any place of worship or burial, or any private structure not owned by him.
[PL 1975, c. 499, §1 (NEW).]

2. As used in this section, "desecrate" means marring, defacing, damaging or otherwise physically mistreating, in a way that will outrage the sensibilities of an ordinary person likely to observe or discover the actions.
[PL 1975, c. 499, §1 (NEW).]

3. Desecration is a Class D crime.
[PL 1983, c. 710 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1983, c. 710 (AMD).

§507-A. Interference with cemetery or burial ground

1. No person may intentionally or knowingly destroy, mutilate, deface, injure or remove any tomb, monument, gravestone, marker or other structure placed or designed as a memorial for the dead, or any portion or fragment of any such memorial, or any fence, railing, curb or other enclosure for the burial of the dead.
[PL 1987, c. 326, §2 (NEW).]

2. Subsection 1 does not apply to any person:

A. Who performs an act as authorized under Title 13, section 1371; or [PL 1987, c. 326, §2 (NEW).]

B. Who meets the requirements governing eminent domain as established by state or federal law. [PL 1987, c. 326, §2 (NEW).]
[PL 1987, c. 326, §2 (NEW).]

3. Any person who violates subsection 1 commits a Class D crime.
[PL 1987, c. 326, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 326, §2 (NEW).

§507-B. Illegal possession or sale of gravestones

1. No person may possess, sell, attempt to sell, offer for sale, transfer or dispose of any tomb, monument, gravestone, marker or other structure placed or designed as a memorial for the dead, or any portion or fragment of any such memorial, knowing or having reasonable cause to know that it has been illegally removed from a cemetery or burial ground.
[PL 1987, c. 326, §2 (NEW).]

2. Any person who violates subsection 1 commits a Class C crime.
[PL 1987, c. 326, §2 (NEW).]

3. Any person who violates subsection 1 is liable to the following for triple damages to be recovered in a civil action:

A. The municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located; [PL 1987, c. 326, §2 (NEW).]

B. A cemetery association authorized to bring suit and recover damages by the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located; or [PL 1987, c. 326, §2 (NEW).]

C. A historical society authorized to bring suit and recover damages by the municipality or, in the case of unorganized territory, the county in which the cemetery or burial ground is located. [PL 1987, c. 326, §2 (NEW).]

[PL 1987, c. 326, §2 (NEW).]

SECTION HISTORY

PL 1987, c. 326, §2 (NEW).

§508. Abuse of corpse

1. A person is guilty of abuse of corpse if he intentionally and unlawfully disinters, digs up, removes, conceals, mutilates or destroys a human corpse, or any part or the ashes thereof.

[PL 1975, c. 499, §1 (NEW).]

2. It is a defense to prosecution under this section that the actor was a physician, scientist or student who had in his possession, or used human bodies or parts thereof lawfully obtained, for anatomical, physiological or other scientific investigation or instruction.

[PL 1975, c. 499, §1 (NEW).]

3. Abuse of corpse is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§509. False public alarm or report

1. A person is guilty of false public alarm or report if:

A. He knowingly gives or causes to be given false information to any law enforcement officer with the intent of inducing such officer to believe that a crime has been committed or that another has committed a crime, knowing the information to be false; or [PL 1975, c. 499, §1 (NEW).]

B. He knowingly gives or causes to be given false information to any law enforcement officer, member of a fire fighting agency, including a volunteer fire department, or any other person knowing that such other is likely to communicate the information to a law enforcement officer or member of a fire fighting agency, concerning a fire, explosive or other similar substance which is capable of endangering the safety of persons, knowing that such information is false, or knowing that he has no information relating to the fire, explosive or other similar substance. [PL 1975, c. 740, §68 (AMD).]

C. He knowingly gives or causes to be given false information concerning an emergency to any ambulance service, or to any government agency or public utility that deals with emergencies involving danger to life or property, with the intent of inducing such service, agency or utility to respond to the reported emergency, knowing such information to be false. [PL 1977, c. 510, §56 (NEW).]

[PL 1977, c. 510, §56 (AMD).]

2. False public alarm is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §68 (AMD). PL 1977, c. 510, §56 (AMD).

§510. Cruelty to animals

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 638, §3 (AMD). PL 1975, c. 740, §69 (AMD). PL 1977, c. 35 (AMD). PL 1977, c. 169 (AMD). PL 1979, c. 120 (AMD). PL 1987, c. 383, §7 (RP).

§511. Violation of privacy

1. A person is guilty of violation of privacy if, except in the execution of a public duty or as authorized by law, that person intentionally:

A. Commits a civil trespass on property with the intent to overhear or observe any person in a private place; [PL 1997, c. 467, §1 (AMD).]

B. Installs or uses in a private place without the consent of the person or persons entitled to privacy in that place, any device for observing, photographing, recording, amplifying or broadcasting sounds or events in that place; [PL 1997, c. 467, §1 (AMD).]

C. Installs or uses outside a private place without the consent of the person or persons entitled to privacy therein, any device for hearing, recording, amplifying or broadcasting sounds originating in that place that would not ordinarily be audible or comprehensible outside that place; or [PL 1997, c. 467, §1 (AMD).]

D. Engages in visual surveillance in a public place by means of mechanical or electronic equipment with the intent to observe or photograph, or record, amplify or broadcast an image of any portion of the body of another person present in that place when that portion of the body is in fact concealed from public view under clothing and a reasonable person would expect it to be safe from surveillance. [PL 1997, c. 467, §1 (NEW).]

[PL 1997, c. 467, §1 (AMD).]

1-A. It is a defense to a prosecution under subsection 1, paragraph D that the person subject to surveillance had in fact attained 14 years of age and had consented to the visual surveillance.
[PL 1997, c. 467, §2 (NEW).]

2. As used in this section, "private place" means a place where one may reasonably expect to be safe from surveillance, including, but not limited to, changing or dressing rooms, bathrooms and similar places.
[PL 2007, c. 688, §2 (AMD).]

3. Violation of privacy is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1997, c. 467, §§1,2 (AMD). PL 1999, c. 116, §1 (AMD). PL 2007, c. 688, §2 (AMD).

§511-A. Unauthorized dissemination of certain private images

1. A person is guilty of unauthorized dissemination of certain private images if the person, with the intent to harass, torment or threaten the depicted person or another person, knowingly disseminates, displays or publishes a photograph, videotape, film or digital recording of another person in a state of nudity or engaged in a sexual act or engaged in sexual contact in a manner in which there is no public or newsworthy purpose when the person knows or should have known that the depicted person:

A. [PL 2015, c. 394, §5 (RP).]

B. Is identifiable from the image itself or information displayed in connection with the image; and [PL 2015, c. 339, §1 (NEW).]

C. Has not consented to the dissemination, display or publication of the private image. [PL 2015, c. 339, §1 (NEW).]

[PL 2015, c. 339, §1 (NEW).]

2. This section does not apply to the following:

A. Lawful and common practices of medical treatment; [PL 2015, c. 339, §1 (NEW).]

B. Images involving voluntary exposure in a public or commercial setting; or [PL 2015, c. 339, §1 (NEW).]

C. An interactive computer service, as defined in 47 United States Code, Section 230(f)(2), or an information service, as defined in 47 United States Code, Section 153, with regard to content provided by another person. [PL 2015, c. 339, §1 (NEW).]

[PL 2015, c. 339, §1 (NEW).]

3. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Sexual act" has the same meaning as in section 251, subsection 1, paragraph C and also includes:

(1) The transfer or transmission of semen upon any part of the clothed or unclothed body of the depicted person;

(2) Urination within a sexual context;

(3) Bondage or sadomasochism in any sexual context;

(4) Simulated sexual acts; and

(5) Masturbation. [PL 2015, c. 339, §1 (NEW).]

B. "Sexual contact" has the same meaning as in section 251, subsection 1, paragraph D and includes simulated sexual contact. [PL 2015, c. 339, §1 (NEW).]

C. "State of nudity" means the condition of displaying fully unclothed, partially unclothed or transparently clothed genitals, pubic area or anus or, if the person is female, a partially or fully exposed breast below a point immediately above the top of the areola. [PL 2015, c. 339, §1 (NEW).]

[PL 2015, c. 339, §1 (NEW).]

4. Unauthorized dissemination of certain private images is a Class D crime.

[PL 2015, c. 339, §1 (NEW).]

5. Access to and dissemination of certain private images as described in subsection 1 and any written information describing and directly pertaining to the images contained in court records are governed by rule or administrative order adopted by the Supreme Judicial Court.

[PL 2015, c. 410, Pt. A, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 339, §1 (NEW). PL 2015, c. 394, §5 (AMD). PL 2015, c. 410, Pt. A, §1 (AMD).

§512. Failure to report treatment of a gunshot wound

1. A person is guilty of failure to report treatment of a gunshot wound if, being a health care practitioner or emergency medical services person, that person treats a human being for a wound apparently caused by the discharge of a firearm and knowingly fails to report the same to a law enforcement agency immediately by the quickest means of communication.

[PL 2009, c. 49, §1 (AMD).]

2. Failure to report treatment of a gunshot wound is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

3. As used in this section, "health care practitioner" has the same meaning as in Title 24, section 2502, subsection 1-A, and "emergency medical services person" has the same meaning as in Title 32, section 83, subsection 12.
[PL 2009, c. 49, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2009, c. 49, §§1, 2 (AMD).

§513. Maintaining an unprotected well

1. A person is guilty of maintaining an unprotected well if, being the owner or occupier of land on which there is a well, he knowingly fails to enclose the well with a substantial fence or other substantial enclosing barrier or to protect it by a substantial covering which is securely fastened.
[PL 1975, c. 499, §1 (NEW).]

2. Maintaining an unprotected well is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§514. Abandoning an airtight container

1. A person is guilty of abandoning an airtight container if:

A. He abandons or discards in any public place, or in a private place that is accessible to minors, any chest, closet, piece of furniture, refrigerator, icebox or other article having a compartment capacity of 1 1/2 cubic feet or more and having a door or lid which when closed cannot be opened easily from the inside; or [PL 1975, c. 499, §1 (NEW).]

B. Being the owner, lessee, manager or other person in control of a public place or of a place that is accessible to minors on which there has been abandoned or discarded a container described in subsection 1, paragraph A, he knowingly or recklessly fails to remove such container from that place, or to remove the door, lid or other cover of the container. [PL 1975, c. 499, §1 (NEW).]
[PL 1975, c. 499, §1 (NEW).]

2. Abandoning an airtight container is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§515. Unlawful prize fighting

1. A person is guilty of unlawful prize fighting if:

A. He knowingly engages in, encourages or does any act to further a premeditated fight without weapons between 2 or more persons, or a fight commonly called a ring fight or prize fight; or [PL 1975, c. 499, §1 (NEW).]

B. He knowingly sends or publishes a challenge or acceptance of a challenge for such, or carries or delivers such a challenge or acceptance, or trains or assists any person in training or preparing for such fight, or acts as umpire or judge for such fight. [PL 1975, c. 740, §70 (AMD).]
[PL 1975, c. 740, §70 (AMD).]

2. This section shall not apply to any boxing contest or exhibition:

A. [PL 2011, c. 305, §11 (RP).]

B. Under the auspices of a nonprofit organization at which no admission charge is made. [PL 1975, c. 499, §1 (NEW).]

[PL 2011, c. 305, §11 (AMD).]

2-A. This section does not apply to any mixed martial arts or boxing competition, exhibition or event authorized pursuant to Title 8, chapter 20 as long as rules have been adopted by the Combat Sports Authority of Maine pursuant to Title 8, chapter 20.

[PL 2011, c. 305, §12 (AMD).]

3. Unlawful prize fighting is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §70 (AMD). PL 2009, c. 352, §3 (AMD). PL 2009, c. 582, §8 (AMD). PL 2011, c. 305, §§11, 12 (AMD).

§516. Champerty

1. A person is guilty of champerty if, with the intent to collect by a civil action a claim, account, note or other demand due, or to become due to another person, he gives or promises anything of value to such person.

[PL 1975, c. 449, §1 (NEW).]

2. This section does not apply to agreements between attorney and client to bring, prosecute or defend a civil action on a contingent fee basis.

[PL 1975, c. 499, §1 (NEW).]

3. Champerty is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§517. Creating police standoff

1. Creating police standoff. A person is guilty of creating a police standoff if that person:

A. Is in fact barricaded as a result of the person's own actions; [PL 2017, c. 86, §1 (NEW).]

B. Is or claims to be armed with a dangerous weapon; [PL 2017, c. 86, §1 (NEW).]

C. Is instructed by a law enforcement officer or law enforcement agency, either personally, electronically or in writing, to leave the barricaded location; and [PL 2017, c. 86, §1 (NEW).]

D. Fails in fact to leave the barricaded location within 1/2 hour of receiving the instruction as described in paragraph C from a law enforcement officer or law enforcement agency. [PL 2017, c. 86, §1 (NEW).]

[PL 2017, c. 86, §1 (NEW).]

2. Class E crime. Creating a police standoff is a Class E crime.

[PL 2017, c. 86, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 86, §1 (NEW).

CHAPTER 23

OFFENSES AGAINST THE FAMILY

§551. Bigamy

1. A person is guilty of bigamy if, having a spouse, he intentionally marries or purports to marry, knowing that he is legally ineligible to do so.
[PL 1975, c. 499, §1 (NEW).]

2. Bigamy is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§552. Nonsupport of dependents

1. A person is guilty of nonsupport of dependents if he knowingly fails to provide support which he is able by means of property or capacity for labor to provide and which he knows he is legally obliged to provide to a spouse, child or other person declared by law to be his dependent.
[PL 1975, c. 499, §1 (NEW).]

2. As used in this section, "support" includes but is not limited to food, shelter, clothing and other necessary care.
[PL 1975, c. 499, §1 (NEW).]

2-A. Prosecution may be brought in any venue where either the dependent or the defendant resides.
[PL 1981, c. 657, §1 (NEW).]

3. Nonsupport of dependents is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

4. A person placed on probation as a result of a violation of this section may be placed under the supervision of the Department of Health and Human Services. Notwithstanding any other provision of law, the period of probation may extend to the time when the youngest dependent attains the age of 18.
[PL 1975, c. 499, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

SECTION HISTORY

PL 1975, c. 293, §4 (AMD). PL 1975, c. 499, §1 (NEW). PL 1981, c. 657, §1 (AMD). PL 2003, c. 689, §B6 (REV).

§553. Abandonment of child

1. A person is guilty of abandonment of a child if, being a parent, guardian or other person legally charged with the long-term care and custody of a child or being a person to whom the long-term care and custody of a child has been expressly delegated:

A. The person leaves the child who is less than 14 years of age in a place with the intent to abandon the child. Violation of this paragraph is a Class D crime; [PL 2015, c. 274, §1 (AMD).]

B. The person leaves the child who is less than 6 years of age in a place with the intent to abandon the child. Violation of this paragraph is a Class C crime; [PL 2015, c. 274, §1 (AMD).]

C. The person, with the intent to avoid or divest the person of permanent parental responsibility, places the child who is less than 18 years of age with or transfers the physical custody of the child to a nonrelative without court approval. Violation of this paragraph is a Class D crime; or [PL 2015, c. 274, §1 (NEW).]

D. The person, with the intent to avoid or divest the person of permanent parental responsibility, places the child who is less than 6 years of age with or transfers the physical custody of the child to a nonrelative without court approval. Violation of this paragraph is a Class C crime. [PL 2015, c. 274, §1 (NEW).]

[PL 2015, c. 274, §1 (AMD).]

2.

[PL 2001, c. 383, §69 (RP); PL 2001, c. 383, §156 (AFF).]

3. It is an affirmative defense to a prosecution under this section that, at the time the offense occurred:

A. The child was less than 31 days of age; and [PL 2001, c. 543, §1 (NEW).]

B. The child was delivered by the person charged under this section to an individual the person reasonably believed to be:

(1) A law enforcement officer;

(2) Staff at a medical emergency room;

(3) A medical services provider as defined in Title 22, section 4018; or

(4) A hospital staff member at a hospital. [PL 2001, c. 543, §1 (NEW).]

[PL 2001, c. 543, §1 (NEW).]

4. It is an affirmative defense to a prosecution under this section that the person had voluntarily placed the child with a person, agency or medical facility and the placement resulted from communication between the person or the person's agent and the Department of Health and Human Services and health care professionals with the purpose of securing a placement that is in the best interests of the child.

[PL 2013, c. 343, §1 (NEW).]

5. It is an affirmative defense to a prosecution under subsection 1, paragraph C or D that the person, due to the incarceration, military service, medical treatment or incapacity of the person, temporarily placed the child or transferred the physical custody of the child for a designated short-term period with a specific intent and time period for the return of the child.

[PL 2015, c. 274, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1995, c. 694, §C2 (AMD). PL 1995, c. 694, §E2 (AFF). PL 2001, c. 383, §§68,69 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 543, §1 (AMD). PL 2013, c. 343, §1 (AMD). PL 2015, c. 274, §§1, 2 (AMD).

§553-A. Illegal payment with respect to an adoption

1. A person is guilty of illegal payment with respect to an adoption if that person:

A. Is the parent of a child or is a person whose consent is required pursuant to Title 18-C, section 9-302 and, in return for placing that child for adoption, intentionally or knowingly solicits or receives monetary payment or other valuable consideration that is not authorized by Title 18-C, section 9-306; or [PL 2017, c. 402, Pt. C, §33 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. With the intent of adopting a child, intentionally or knowingly provides, or offers to provide, the parent of that child or the person whose consent is required pursuant to Title 18-C, section 9-302 with monetary payment or other valuable consideration that is not authorized by Title 18-C, section 9-306. [PL 2017, c. 402, Pt. C, §33 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2015, c. 233, §1 (NEW); PL 2017, c. 402, Pt. C, §33 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Violation of this section is a Class D crime.

[PL 2015, c. 233, §1 (NEW).]

SECTION HISTORY

PL 2015, c. 233, §1 (NEW). PL 2017, c. 402, Pt. C, §33 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§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 to enter or remain in a house of prostitution. Violation of this paragraph is a Class D crime; [PL 2015, c. 358, §3 (AMD).]

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, tobacco product as defined in Title 22, section 1551, subsection 3, air rifles, gunpowder, smokeless powder or ammunition for firearms. Violation of this paragraph is a Class D crime; [PL 2019, c. 495, §1 (AMD).]

B-1. [PL 2015, c. 358, §3 (RP).]

B-2. Being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child, 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; [PL 2015, c. 358, §3 (AMD).]

B-3. Being the parent, foster parent, guardian or other person having the care and custody of a child, knowingly deprives the child of necessary health care, with a result that the child is placed in danger of serious harm. Violation of this paragraph is a Class D crime; or [PL 2015, c. 358, §3 (AMD).]

C. Otherwise recklessly endangers the health, safety or welfare of the child by violating a duty of care or protection. Violation of this paragraph is a Class D crime. [PL 2015, c. 358, §3 (AMD).] [PL 2019, c. 495, §1 (AMD).]

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 the child under 16 years of age who furnished the child any tobacco product as defined in Title 22, section 1551, subsection 3 or a reasonable amount of intoxicating liquor in the actor's home and presence; [PL 2019, c. 495, §2 (AMD).]

B. The defendant was a person acting pursuant to authority expressly or impliedly granted in Title 22; or [PL 1991, c. 672, §2 (AMD).]

C. The defendant was the parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian who furnished the child under 16 years of age an air rifle, gunpowder, smokeless powder or ammunition for a firearm for use in a supervised manner. [PL 2015, c. 358, §3 (AMD).] [PL 2019, c. 495, §2 (AMD).]

3.
[PL 2015, c. 358, §3 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §71 (AMD). PL 1977, c. 696, §170 (AMD). PL 1989, c. 445, §7 (AMD). PL 1991, c. 672, §§1,2 (AMD). PL 1995, c. 263, §§1,2 (AMD). PL 1995, c. 694, §§C3,4 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1999, c. 11, §§1,2 (AMD). PL

2001, c. 429, §§1-3 (AMD). PL 2005, c. 373, §§1,2 (AMD). PL 2015, c. 358, §3 (AMD). PL 2019, c. 495, §§1, 2 (AMD).

§554-A. Unlawful transfer of a firearm other than a handgun to a minor

1. As used in this section, the following terms have the following meanings.

A. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration. [PL 1995, c. 263, §3 (NEW).]

B. [PL 2007, c. 512, §1 (RP).]

C. "Sell" means to furnish, deliver or otherwise provide for consideration. [PL 2007, c. 512, §1 (NEW).]

D. "Firearm" means a firearm other than a handgun as defined in section 554-B, subsection 1, paragraph A. [PL 2007, c. 512, §1 (NEW).]

[PL 2007, c. 512, §1 (AMD).]

2. A person is guilty of unlawfully transferring a firearm to a person under 16 years of age if that person, who is not the parent, foster parent or guardian of the person under 16 years of age, knowingly transfers a firearm to a person under 16 years of age. Violation of this subsection is a Class D crime. [PL 2007, c. 512, §1 (AMD).]

2-A. A person is guilty of unlawfully selling a firearm to a person 16 years of age or older and under 18 years of age if that person, who is not the parent, foster parent or guardian of the person 16 years of age or older and under 18 years of age, knowingly sells a firearm to a person 16 years of age or older and under 18 years of age.

A. A person who violates this subsection commits a civil violation for which a fine of not more than $500 may be adjudged. [PL 2007, c. 512, §1 (NEW).]

B. A person who violates this subsection after having been adjudicated as having committed one or more violations under this subsection commits a Class D crime. [PL 2007, c. 512, §1 (NEW).]

[PL 2007, c. 512, §1 (NEW).]

3. It is an affirmative defense to a prosecution under subsection 2 that:

A. The actor reasonably believed the person receiving the firearm had attained 16 years of age. A reasonable belief cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or [PL 2007, c. 512, §1 (AMD).]

B. The transfer of the firearm to the person under 16 years of age was approved by the parent, foster parent or guardian of the person under 16 years of age. [PL 2007, c. 512, §1 (AMD).]

[PL 2007, c. 512, §1 (AMD).]

3-A. It is an affirmative defense to a prosecution under subsection 2-A that:

A. The actor reasonably believed the person receiving the firearm had attained 18 years of age. A reasonable belief cannot be based solely upon the physical appearance of the person or upon the oral representation of that person as to that person's age; or [PL 2007, c. 512, §1 (NEW).]

B. The sale of the firearm to the person 16 years of age or older and under 18 years of age was approved by the parent, foster parent or guardian of the person 16 years of age or older and under 18 years of age. [PL 2007, c. 512, §1 (NEW).]

[PL 2007, c. 512, §1 (NEW).]

4.

[PL 2007, c. 512, §1 (RP).]

SECTION HISTORY

PL 1995, c. 263, §3 (NEW). PL 2003, c. 188, §1 (AMD). PL 2007, c. 512, §1 (AMD).

§554-B. Unlawful transfer of handgun to minor

1. As used in this section, the following terms have the following meanings.

A. "Handgun" means a firearm that has a short stock and is designed to be held and fired by the use of a single hand, or any combination of parts from which a handgun can be assembled. [PL 2003, c. 188, §2 (NEW).]

B. "Minor" means a person under 18 years of age. [PL 2003, c. 188, §2 (NEW).]

C. "Transfer" means to sell, furnish, give, lend, deliver or otherwise provide, with or without consideration. [PL 2003, c. 188, §2 (NEW).]

[PL 2003, c. 188, §2 (NEW).]

2. A person is guilty of unlawfully transferring a handgun to a minor if that person knowingly transfers a handgun to a person who the transferor knows or has reasonable cause to believe is a minor. [PL 2003, c. 188, §2 (NEW).]

3. This section does not apply to:

A. A temporary transfer of a handgun to a minor:

(1) With the prior written consent of the minor's parent or guardian and that parent or guardian is not prohibited by federal, state or local law from possessing a firearm; or

(2) In the course of employment, target practice, hunting or instruction in the safe and lawful use of a handgun.

The minor may transport an unloaded handgun in a locked container directly from the place of transfer to a place at which an activity described in this subparagraph is to take place and directly from the place at which such an activity took place to the transferor; [PL 2003, c. 188, §2 (NEW).]

B. A minor who is a member of the United States Armed Forces or the National Guard who possesses or is armed with a handgun in the line of duty; [PL 2003, c. 188, §2 (NEW).]

C. A transfer by inheritance of title to, but not possession of, a handgun to a minor; or [PL 2003, c. 188, §2 (NEW).]

D. The transfer of a handgun to a minor when the minor takes the handgun in self-defense or in defense of another person against an intruder into the residence of the minor or a residence in which the minor is an invited guest. [PL 2003, c. 188, §2 (NEW).]

[PL 2003, c. 188, §2 (NEW).]

4. The State may not permanently confiscate a handgun that is transferred to a minor in circumstances in which the transferor is not in violation of this section and if the possession of the handgun by the minor subsequently becomes unlawful because of the conduct of the minor. When that handgun is no longer required by the State for the purposes of investigation or prosecution, the handgun must be returned to the lawful owner.

[PL 2003, c. 188, §2 (NEW).]

5. The following penalties apply.

A. A person who violates this section commits a Class D crime, except as provided in paragraph B. [PL 2003, c. 188, §2 (NEW).]

B. A person who violates this section and, at the time of the offense, has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when

determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §24 (AMD).]

[PL 2007, c. 476, §24 (AMD).]

SECTION HISTORY

PL 2003, c. 188, §2 (NEW). PL 2007, c. 476, §24 (AMD).

§555. Endangering welfare of dependent person

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

A. The person recklessly endangers the health, safety or mental welfare of a dependent person. Violation of this paragraph is a Class D crime; [PL 2019, c. 543, §1 (AMD).]

B. The person intentionally or knowingly endangers the health, safety or mental welfare of a dependent person. Violation of this paragraph is a Class C crime; [PL 2019, c. 543, §1 (AMD).]

C. The person recklessly infringes on a dependent person's rights of association, including but not limited to the right to receive visitors, mail or telephone or electronic communication, for the purpose of establishing or maintaining undue influence over that person. Violation of this paragraph is a Class D crime; or [PL 2019, c. 543, §2 (NEW).]

D. The person intentionally or knowingly infringes on a dependent person's rights of association, including but not limited to the right to receive visitors, mail or telephone or electronic communication, for the purpose of establishing or maintaining undue influence over that person. Violation of this paragraph is a Class C crime. [PL 2019, c. 543, §2 (NEW).]

[PL 2019, c. 543, §§1, 2 (AMD).]

2. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Endanger" includes a failure to act only when the defendant has a legal duty to protect the health, safety or mental welfare of the dependent person. For purposes of this paragraph, a legal duty may be inferred if the defendant has assumed responsibility in whole or in part for the care of the dependent person. [PL 2015, c. 306, §2 (NEW).]

B. "Dependent person" means a person, regardless of where that person resides, who is wholly or partially dependent upon one or more other persons for care or support because the person suffers from a significant limitation in mobility, vision, hearing or mental functioning or is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. [PL 2015, c. 306, §2 (NEW).]

C. "Undue influence" has the same meaning as in section 109, subsection 4. [PL 2019, c. 543, §3 (NEW).]

[PL 2019, c. 543, §3 (AMD).]

3.

[PL 2005, c. 431, §1 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1995, c. 110, §1 (AMD). PL 2001, c. 111, §1 (AMD). PL 2005, c. 431, §1 (RPR). PL 2015, c. 306, §§1, 2 (AMD). PL 2019, c. 543, §§1-3 (AMD).

§556. Incest

1. A person is guilty of incest if the person is at least 18 years of age and:

A. Engages in sexual intercourse with another person who the actor knows is related to the actor within the 2nd degree of consanguinity. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §70 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Violates paragraph A and, at the time of the incest, the person has 2 or more prior Maine convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §25 (AMD).]

[PL 2007, c. 476, §25 (AMD).]

1-A. It is a defense to a prosecution under this section that, at the time the actor engaged in sexual intercourse with the other person, the actor was legally married to the other person.

[PL 1989, c. 401, Pt. A, §7 (AMD).]

1-B. As used in this section "sexual intercourse" means any penetration of the female sex organ by the male sex organ. Emission is not required.

[PL 1989, c. 401, Pt. A, §7 (NEW).]

1-C. As used in this section, "related to the actor within the 2nd degree of consanguinity" has the following meanings.

A. When the actor is a woman, it means the other person is her father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother. [PL 2001, c. 383, §71 (NEW); PL 2001, c. 383, §156 (AFF).]

B. When this actor is a man, it means the other person is his mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister. [PL 2001, c. 383, §71 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §71 (NEW); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §72 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §72 (AMD). PL 1977, c. 510, §57 (AMD). PL 1989, c. 401, §A7 (AMD). PL 1993, c. 451, §3 (AMD). PL 2001, c. 383, §§70-72 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §25 (AMD).

§557. Other defenses

For the purposes of this chapter, a person who in good faith provides treatment for a child or dependent person by spiritual means through prayer may not for that reason alone be determined to have knowingly endangered the welfare of that child or dependent person. [PL 2005, c. 373, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1995, c. 110, §2 (AMD). PL 2005, c. 373, §3 (AMD).

CHAPTER 25

BRIBERY AND CORRUPT PRACTICES

§601. Scope of chapter

Nothing in this chapter shall be construed to prohibit the giving or receiving of campaign contributions made for the purpose of defraying the costs of a political campaign. No person shall be convicted of an offense solely on the evidence that a campaign contribution was made, and that an appointment or nomination was subsequently made by the person to whose campaign or political party the contribution was made. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§602. Bribery in official and political matters

1. A person is guilty of bribery in official and political matters if:

A. He promises, offers, or gives any pecuniary benefit to another with the intention of influencing the other's action, decision, opinion, recommendation, vote, nomination or other exercise of discretion as a public servant, party official or voter; [PL 1981, c. 349, §1 (AMD).]

B. Being a public servant, party official, candidate for electoral office or voter, he solicits, accepts or agrees to accept any pecuniary benefit from another knowing or believing the other's purpose to be as described in paragraph A, or fails to report to a law enforcement officer that he has been offered or promised a pecuniary benefit in violation of paragraph A; or [PL 1983, c. 583, §8 (AMD).]

C. That person promises, offers or gives any pecuniary benefit to another with the intention of obtaining the other's signature on an absentee ballot under Title 21-A, chapter 9, subchapter IV, or referendum petition under Title 21-A, chapter 11, or that person solicits, accepts or agrees to accept any pecuniary benefit from another knowing or believing the other's purpose is to obtain that person's signature on an absentee ballot or referendum petition, or fails to report to a law enforcement officer that the person has been offered or promised a pecuniary benefit in violation of this paragraph. [PL 1989, c. 502, Pt. A, §47 (AMD).]

[PL 1989, c. 502, Pt. A, §47 (AMD).]

2. As used in this section and other sections of this chapter, the following definitions apply.

A. A person is a "candidate for electoral office" upon his public announcement of his candidacy. [PL 1975, c. 499, §1 (NEW).]

B. "Party official" means any person holding any post in a political party whether by election, appointment or otherwise. [PL 1975, c. 499, §1 (NEW).]

C. "Pecuniary benefit" means any advantage in the form of money, property, commercial interest or anything else, the primary significance of which is economic gain; it does not include economic advantage applicable to the public generally, such as tax reduction or increased prosperity generally. "Pecuniary benefit" does not include the following:

(1) A meal, if the meal is provided by industry or special interest organizations as part of an informational program presented to a group of public servants;

(2) A meal, if the meal is a prayer breakfast or a meal served during a meeting to establish a prayer breakfast; or

(3) A subscription to a newspaper, news magazine or other news publication. [RR 1997, c. 1, §12 (COR).]

[RR 1997, c. 1, §12 (COR).]

3. Bribery in official and political matters is a Class C crime.

[PL 2001, c. 471, Pt. A, §22 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 349, §§1,2 (AMD). PL 1983, c. 583, §8 (AMD). PL 1989, c. 502, §A47 (AMD). PL 1993, c. 396, §1 (AMD). PL 1995, c. 33, §3 (AMD). RR 1997, c. 1, §12 (COR). PL 1997, c. 223, §1 (AMD). PL 2001, c. 471, §A22 (AMD).

§603. Improper influence

1. A person is guilty of improper influence if he:

A. Threatens any harm to a public servant, party official or voter with the purpose of influencing his action, decision, opinion, recommendation, nomination, vote or other exercise of discretion; [PL 1975, c. 499, §1 (NEW).]

B. Privately addresses to any public servant who has or will have an official discretion in a judicial or administrative proceeding any representation, argument or other communication with the intention of influencing that discretion on the basis of considerations other than those authorized by law; or [PL 1975, c. 499, §1 (NEW).]

C. Being a public servant or party official, fails to report to a law enforcement officer conduct designed to influence him in violation of paragraphs A or B. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. "Harm" means any disadvantage or injury, pecuniary or otherwise, including disadvantage or injury to any other person or entity in whose welfare the public servant, party official or voter is interested.

[PL 1975, c. 499, §1 (NEW).]

3. Improper influence is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§604. Improper compensation for past action

1. A person is guilty of improper compensation for past action if:

A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for having given a decision, opinion, recommendation, nomination, vote, otherwise exercised his discretion, or for having violated his duty; or [PL 1975, c. 499, §1 (NEW).]

B. He promises, offers or gives any pecuniary benefit, acceptance of which would be a violation of paragraph A. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Improper compensation for past action is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§605. Improper gifts to public servants

1. A person is guilty of improper gifts to public servants if:

A. Being a public servant that person solicits, accepts or agrees to accept any pecuniary benefit from a person if the public servant knows or reasonably should know that the purpose of the donor in making the gift is to influence the public servant in the performance of the public servant's official duties or vote, or is intended as a reward for action on the part of the public servant; or [PL 1999, c. 149, §1 (AMD).]

B. He knowingly gives, offers, or promises any pecuniary benefit prohibited by paragraph A. [PL 1975, c. 499, §1 (NEW).]

[PL 1999, c. 149, §1 (AMD).]

2. Improper gifts to public servants is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1999, c. 149, §1 (AMD).

§606. Improper compensation for services

1. A person is guilty of improper compensation for services if:

A. Being a public servant, he solicits, accepts or agrees to accept any pecuniary benefit in return for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction or proposal as to which he knows that he has or is likely to have an official discretion to exercise; or [PL 1975, c. 499, §1 (NEW).]

B. He gives, offers or promises any pecuniary benefit, knowing that it is prohibited by paragraph A. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Improper compensation for services is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§607. Purchase of public office

1. A person is guilty of purchase of public office if:

A. He solicits, accepts or agrees to accept, for himself, another person, or a political party, money or any other pecuniary benefit as compensation for his endorsement, nomination, appointment, approval or disapproval of any person for a position as a public servant or for the advancement of any public servant; or [PL 1975, c. 499, §1 (NEW).]

B. He knowingly gives, offers or promises any pecuniary benefit prohibited by paragraph A. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Purchase of public office is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§608. Official oppression

1. A person is guilty of official oppression if, being a public servant and acting with the intention to benefit himself or another or to harm another, he knowingly commits an unauthorized act which purports to be an act of his office, or knowingly refrains from performing a duty imposed on him by law or clearly inherent in the nature of his office.

[PL 1975, c. 499, §1 (NEW).]

2. Official oppression is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§609. Misuse of information

1. A person is guilty of misuse of information if, being a public servant and knowing that official action is contemplated, or acting in reliance on information which he has acquired by virtue of his office or from another public servant, he:

A. Acquires or divests himself of a pecuniary interest in any property, transaction or enterprise that may be affected by such official action or information; [RR 2013, c. 2, §31 (COR).]

B. Speculates or wagers on the basis of such official action or information; or [PL 1975, c. 499, §1 (NEW).]

C. Knowingly aids another to do any of the things described in paragraphs A and B. [PL 1975, c. 499, §1 (NEW).]

[RR 2013, c. 2, §31 (COR).]

2. Misuse of information is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). RR 2013, c. 2, §31 (COR).

CHAPTER 27

ROBBERY

§651. Robbery

1. A person is guilty of robbery if the person commits or attempts to commit theft and at the time of the person's actions:

A. The actor recklessly inflicts bodily injury on another. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §73 (AMD); PL 2001, c. 383, §156 (AFF).]

B. The actor threatens to use force against any person present or otherwise intentionally or knowingly places any person present in fear of the imminent use of force with the intent:

(1) To prevent or overcome resistance to the taking of the property, or to the retention of the property immediately after the taking; or

(2) To compel the person in control of the property to give it up or to engage in other conduct that aids in the taking or carrying away of the property.

Violation of this paragraph is a Class B crime; [PL 2017, c. 157, §1 (AMD).]

C. The actor uses physical force on another with the intent specified in paragraph B, subparagraph (1) or (2). Violation of this paragraph is a Class A crime; [PL 2001, c. 383, §73 (AMD); PL 2001, c. 383, §156 (AFF).]

D. The actor intentionally inflicts or attempts to inflict bodily injury on another. Violation of this paragraph is a Class A crime; or [PL 2001, c. 383, §73 (AMD); PL 2001, c. 383, §156 (AFF).]

E. The actor is armed with a dangerous weapon in the course of a robbery as defined in paragraphs A through D or knows that the accomplice is so armed. Violation of this paragraph is a Class A crime. [PL 2001, c. 383, §73 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2017, c. 157, §1 (AMD).]

2.

[PL 2001, c. 383, §74 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §73 (RPR). PL 2001, c. 383, §§73,74 (AMD). PL 2001, c. 383, §156 (AFF). PL 2017, c. 157, §1 (AMD).

§652. Robbery

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §74 (RP).

CHAPTER 29

FORGERY AND RELATED OFFENSES

§701. Definitions

As used in sections 702 and 703: [PL 1975, c. 499, §1 (NEW).]

1. A person "falsely alters" a written instrument when, without the authority of anyone entitled to grant it, he changes a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of, or fully authorized by, its ostensible holder, author, maker or drawer;
[PL 1975, c. 740, §75 (AMD).]

2. A person "falsely completes" a written instrument when, by adding, inserting or changing matter, he transforms an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that such complete instrument appears or purports to be in all respects an authentic creation of, or fully authorized by, its ostensible author, maker or drawer;
[PL 1975, c. 499, §1 (NEW).]

3. A person "falsely makes" a written instrument when he makes or draws a complete written instrument in its entirety, or an incomplete written instrument, which purports to be an authentic creation of its ostensible author, maker or drawer, but which is not such, either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof;
[PL 1975, c. 499, §1 (NEW).]

4. "Written instrument" includes any token, coin, stamp, seal, badge, trademark, credit card, absentee ballot application, absentee ballot envelope, medical drug prescription form, other evidence or symbol of value, right, privilege or identification, and any paper, document or other written instrument containing written or printed matter or its equivalent;
[PL 2001, c. 419, §1 (AMD).]

5. "Complete written instrument" means a written instrument which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof; and
[PL 1975, c. 499, §1 (NEW).]

6. "Incomplete written instrument" means a written instrument which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §75 (AMD). PL 1981, c. 436, §1 (AMD). PL 2001, c. 419, §1 (AMD).

§702. Aggravated forgery

1. A person is guilty of aggravated forgery if, with intent to defraud or deceive another person or government, he falsely makes, completes, endorses or alters a written instrument, or knowingly utters or possesses such an instrument, and the instrument is:

A. Part of an issue of money, stamps, securities or other valuable instruments issued by a government or governmental instrumentality; [PL 1975, c. 499, §1 (NEW).]

B. Part of an issue of stocks, bonds or other instruments representing interests in or claims against an organization or its property; [PL 1975, c. 499, §1 (NEW).]

C. A will, codicil or other instrument providing for the disposition of property after death; [PL 1975, c. 499, §1 (NEW).]

D. A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee; or [PL 1975, c. 499, §1 (NEW).]

E. [PL 1989, c. 187, §1 (RP).]

[PL 1989, c. 187, §1 (AMD).]

2. Aggravated forgery is a Class B crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §76 (AMD). PL 1989, c. 187, §1 (AMD).

§703. Forgery

1. A person is guilty of forgery if, with the intent to defraud or deceive another person or government:

A. The person falsely makes, completes, endorses or alters a written instrument, or knowingly utters or possesses such an instrument. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §75 (AMD); PL 2001, c. 383, §156 (AFF).]

A-1. The person violates paragraph A and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instruments is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime; or

(3) At the time of the forgery, the person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of this section; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime; [PL 2007, c. 476, §26 (AMD).]

B. The person causes another, by deception, to sign or execute a written instrument, or utters such an instrument. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §75 (AMD); PL 2001, c. 383, §156 (AFF).]

B-1. The person violates paragraph B and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instruments is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime; or

(3) At the time of the forgery, the person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of this section; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702 or 708; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §27 (AMD).]

[PL 2007, c. 476, §§26, 27 (AMD).]

2.

[PL 2001, c. 667, Pt. D, §13 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

3. Amounts of value involved in forgeries may be aggregated in the same manner as provided in section 352, subsection 5, paragraph E. Prosecution of an aggregated forgery may be brought in any venue in which one of the aggregated forgeries was committed.

[PL 1989, c. 187, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§77,78 (AMD). PL 1977, c. 510, §58 (AMD). PL 1981, c. 317, §21 (AMD). PL 1989, c. 187, §§2,3 (AMD). PL 1995, c. 224, §6 (AMD). PL 2001, c. 383, §§75,76 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 389, §6 (AMD). PL 2001, c. 667, §§D13,14 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2007, c. 476, §§26, 27 (AMD).

§704. Possession of forgery devices

1. A person is guilty of possession of forgery devices if:

A. He makes or possesses with knowledge of its character, any plate, die or other device, apparatus, equipment or article specifically designed or adapted for use in committing aggravated forgery or forgery; or [PL 1975, c. 499, §1 (NEW).]

B. He makes or possesses any device, apparatus, equipment, or article capable of or adaptable to use in committing an aggravated forgery or forgery, with the intent to use it himself, or to aid or permit another to use it for purposes of committing aggravated forgery or forgery. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Possession of forgery devices is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§705. Criminal simulation

1. A person is guilty of criminal simulation if:

A. With intent to defraud, the person makes or alters any property so that it appears to have an age, rarity, quality, composition, source or authorship that it does not in fact possess or, with knowledge of its true character and with intent to defraud, the person transfers or possesses property so simulated. A violation of this paragraph is a Class E crime; [PL 2015, c. 364, §1 (AMD).]

B. In return for a pecuniary benefit:

(1) The person authors, prepares, writes, sells, transfers or possesses with intent to sell or transfer, an essay, term paper or other manuscript knowing that it will be, or believing that it probably will be, submitted by another person in satisfaction of a course, credit or degree requirement at a university or other degree, diploma or certificate-granting educational institution. A violation of this subparagraph is a Class E crime; or

(2) The person takes an examination for another person in satisfaction of a course, credit or degree requirement at a university or other degree, diploma or certificate-granting educational institution. A violation of this subparagraph is a Class E crime; [PL 2015, c. 364, §1 (AMD).]

C. The person knowingly makes, gives or exhibits a false pedigree in writing of any animal. A violation of this paragraph is a Class E crime; [PL 2015, c. 364, §1 (AMD).]

D. With intent to defraud and to prevent identification:

(1) The person alters, removes or obscures the manufacturer's serial number or any other distinguishing identification number, mark or symbol upon any automobile, snowmobile, outboard motor, motorboat, aircraft or any other vehicle or upon any machine or other object, other than a firearm. A violation of this subparagraph is a Class E crime; or

(2) The person possesses any such object or any such item after that number has been altered, removed or obscured. A violation of this subparagraph is a Class E crime; or [PL 2015, c. 364, §1 (AMD).]

E. With intent to defraud or to prevent identification:

(1) The person alters, removes or obscures the manufacturer's make, model or serial number on any firearm. A violation of this subparagraph is a Class C crime; or

(2) The person possesses a firearm altered as set out in subparagraph (1) or intentionally or knowingly transports any such firearm. A violation of this subparagraph is a Class C crime. [PL 2015, c. 364, §1 (NEW).]

[PL 2015, c. 364, §1 (AMD).]

2.

[PL 2015, c. 364, §1 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 129 (AMD). PL 2015, c. 364, §1 (AMD).

§706. Suppressing recordable instrument

1. A person is guilty of suppressing a recordable instrument if, with intent to defraud anyone, he falsifies, destroys, removes or conceals any will, deed, mortgage, security instrument or other writing for which the law provides public recording, whether or not it is in fact recorded.

[PL 1975, c. 499, §1 (NEW).]

2. Suppressing a recordable instrument is a Class E crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§706-A. Falsely filing a recordable instrument

1. A person is guilty of falsely filing a recordable instrument if, with intent to defraud, harass or intimidate, the person files or causes to be filed a will, deed, mortgage, security instrument or other writing for which the law provides public recording, knowing or believing the writing to be false or without legal authority.

[PL 2007, c. 228, §2 (NEW).]

2. Falsely filing a recordable instrument is a Class D crime.
[PL 2007, c. 228, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 228, §2 (NEW).

§707. Falsifying private records

1. A person is guilty of falsifying private records if, with intent to defraud any person, he:

A. Makes a false entry in the records of an organization, or [PL 1975, c. 499, §1 (NEW).]

B. Alters, erases, obliterates, deletes, removes or destroys a true entry in the records of an organization; or [PL 1975, c. 499, §1 (NEW).]

C. Omits to make a true entry in the records of an organization in violation of a duty to do so which he knows to be imposed on him by statute; or [PL 1975, c. 499, §1 (NEW).]

D. Prevents the making of a true entry or causes the omission thereof in the records of an organization. [PL 1975, c. 499, §1 (NEW).]
[PL 1975, c. 499, §1 (NEW).]

2. Falsifying private records is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§707-A. Falsifying health care records

1. A person is guilty of falsifying health care records if, with intent to deceive any person or governmental entity, the person:

A. Makes, or causes to be made, a false material entry in the health care records maintained by a health care provider; [PL 2017, c. 410, §1 (NEW).]

B. Alters, erases, obliterates, deletes, removes or destroys a true material entry in the health care records maintained by a health care provider; [PL 2017, c. 410, §1 (NEW).]

C. Knowingly omits to make a true material entry in the health care records maintained by a health care provider in violation of a duty to do so that is imposed by statute, standard of care or regulatory provision; or [PL 2017, c. 410, §1 (NEW).]

D. Prevents the making of a true material entry or causes the omission of a true material entry in the health care records maintained by a health care provider. [PL 2017, c. 410, §1 (NEW).]
[PL 2017, c. 410, §1 (NEW).]

2. Supplementation of information or correction of an error in health care records in a manner that reasonably discloses that the supplementation or correction was performed and that does not conceal or alter prior entries is not a violation of this section.
[PL 2017, c. 410, §1 (NEW).]

3. Falsifying health care records is a Class D crime, except as provided in subsection 4.
[PL 2017, c. 410, §1 (NEW).]

4. Falsifying health care records is a Class C crime if any reliance on a violation of this section causes serious bodily injury or impairment of the mental or behavioral condition of any person.
[PL 2017, c. 410, §1 (NEW).]

5. As used in this section, the following definitions apply.

A. "Health care provider" means a hospital, clinic, nursing home or other facility in which skilled nursing care or medical services are prescribed by or performed under the general direction of persons licensed to practice medicine, dentistry, podiatry or surgery in this State and that is licensed or otherwise authorized by the laws of this State. [PL 2017, c. 410, §1 (NEW).]

B. "Health care record" means a record that relates to an individual's physical, mental or behavioral condition, personal or family medical history or medical treatment or the health care provided to that individual. [PL 2017, c. 410, §1 (NEW).]

C. "Material" means capable of altering the course or outcome of any subsequent reliance on the health care record. [PL 2017, c. 410, §1 (NEW).]

[PL 2017, c. 410, §1 (NEW).]

SECTION HISTORY

PL 2017, c. 410, §1 (NEW).

§708. Negotiating a worthless instrument

1. A person is guilty of negotiating a worthless instrument if:

A. The person intentionally issues or negotiates a negotiable instrument knowing that it will not be honored by the maker or drawee. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §77 (NEW); PL 2001, c. 383, §156 (AFF).]

B. The person violates paragraph A and:

(1) The face value of the written instrument or the aggregate value of the instruments is more than $10,000. Violation of this subparagraph is a Class B crime;

(2) The face value of the written instrument or the aggregate value of the instruments is more than $1,000 but not more than $10,000. Violation of this subparagraph is a Class C crime;

(3) The face value of the negotiable instrument is more than $500 but not more than $1,000. Violation of this subparagraph is a Class D crime; or

(4) At the time of negotiating a worthless instrument, the person has 2 or more prior convictions for any combination of the Maine offenses listed in this subparagraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. The Maine offenses are: theft; any violation of this section; any violation of section 401 in which the crime intended to be committed inside the structure is theft; any violation of section 405 in which the crime intended to be committed inside the motor vehicle is theft; any violation of section 651; any violation of section 702 or 703; or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class C crime. [PL 2007, c. 476, §28 (AMD).]

[PL 2007, c. 476, §28 (AMD).]

2. Proof of the following gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person issuing or negotiating the instrument knew that it would not be honored:

A. The drawer had no account with the drawee at the time the instrument was negotiated; [PL 2011, c. 504, §1 (AMD).]

B. Payment was refused by the drawee for lack of funds upon presentment made within the time frame specified in Title 11, section 3-1304, and the drawer failed to honor the drawer's contract within 5 days after actual receipt of a notice of dishonor, as defined in Title 11, section 3-1503, except that this time limit is tolled during one subsequent representment of the negotiable instrument; or [PL 2011, c. 504, §1 (AMD).]

C. The drawer refuses to tender payment in the amount of the instrument within 5 days of receipt of a notice under this paragraph mailed by certified or registered mail evidenced by return receipt at the address printed on the instrument or given at the time of issuance. The notice must be substantially as follows:

"You are hereby notified that the following instrument(s):

Number: ..... Date: ..... Amount: ..... Name of Bank: ..... drawn upon ..... and payable to ....., (has)(have) been dishonored. Pursuant to Maine law, the Maine Revised Statutes, Title 17-A, section 708, subsection 2, you have 5 days from receipt of this notice to tender payment of the total amount of the instrument(s) plus the applicable service charge(s) of $.....(.....dollars and .....cents) and any fee charged to the holder of the instrument(s) by a bank or financial institution as a result of the instrument(s) not being honored, the total amount due being $.....(.....dollars and.....cents). Pursuant to Title 17-A, section 708, subsection 2, unless this amount is paid in full to .....within 5 days after the actual receipt of this notice of dishonor, your failure to pay the amount owed gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that you knew that your instrument(s) would not be honored. Your failure to pay the amount owed could result in a report to a law enforcement agency for investigation and possible criminal prosecution for negotiating a worthless instrument in violation of Title 17-A, section 708, subsection 1." [RR 2011, c. 2, §15 (COR).]

[RR 2011, c. 2, §15 (COR).]

2-A. The following evidentiary provisions apply.

A. Proof that there is a purported stamp or writing of the drawee, payor bank or presenting bank on or accompanying the instrument that states "no account," "account closed" or some other terminology indicating that the instrument was not honored because no account existed gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person who issued or negotiated the instrument has no account with the drawee at the time the instrument was issued or negotiated. [PL 2001, c. 383, §79 (AMD); PL 2001, c. 383, §156 (AFF).]

B. Proof that there is a purported stamp or writing of the drawee, payor bank or presenting bank on or accompanying the instrument that states "insufficient funds," "NSF" or some other terminology indicating that the instrument was not honored due to lack of funds gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person who issued or negotiated the instrument had insufficient funds with the drawee at the time the instrument was issued or negotiated. [PL 2001, c. 383, §79 (AMD); PL 2001, c. 383, §156 (AFF).]

C. The purported stamp or writing of the drawee, payor bank or presenting bank on or accompanying a negotiable instrument is admissible in evidence in any court of the State, unless the defendant requests in writing at least 10 days before trial that the prosecution provide a qualified witness to testify as to why the instrument was not honored. [PL 1997, c. 253, §1 (NEW).]

[PL 2001, c. 383, §79 (AMD); PL 2001, c. 383, §156 (AFF).]

3. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Issue" has the meaning provided in Title 11, section 3-1105, subsection (1). [PL 1995, c. 38, §2 (AMD).]

A-1. "Drawee" has the meaning provided in Title 11, section 3-1103, subsection (1), paragraph (b). [PL 1995, c. 38, §2 (NEW).]

A-2. "Drawer" has the meaning provided in Title 11, section 3-1103, subsection (1), paragraph (c). [PL 1995, c. 38, §2 (NEW).]

B. "Negotiable instrument" has the meaning provided in Title 11, section 3-1104. [PL 1995, c. 38, §2 (AMD).]

C. "Negotiation" and its variants have the meaning provided in Title 11, section 3-1201. [PL 1995, c. 38, §2 (AMD).]

[PL 1995, c. 38, §2 (AMD).]

3-A. Amounts of face value of negotiable instruments involved in violations of this section committed pursuant to one scheme or course of conduct, whether the instruments were issued or negotiated to the same person or several persons, may be aggregated to charge a single violation of this section of appropriate class. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregated count be considered as separate violations of this section. An aggregated count of violations of this section may not be deemed duplicitous because of such an order and no election may be required. Prosecution may be brought in any venue in which one of the violations of this section that have been aggregated was committed.

[PL 2001, c. 383, §80 (AMD); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2001, c. 383, §81 (RP); PL 2001, c. 383, §156 (AFF); PL 2003, c. 1, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §79 (AMD). PL 1977, c. 510, §59 (AMD). PL 1981, c. 317, §22 (AMD). PL 1983, c. 198, §§1,2 (AMD). PL 1989, c. 186 (AMD). PL 1995, c. 38, §§1,2 (AMD). PL 1995, c. 224, §7 (AMD). PL 1997, c. 253, §1 (AMD). PL 2001, c. 383, §§77-81 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 389, §7 (AMD). PL 2001, c. 667, §D15 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 1, §6 (AMD). PL 2007, c. 476, §28 (AMD). RR 2011, c. 2, §15 (COR). PL 2011, c. 504, §1 (AMD).

CHAPTER 31

OFFENSES AGAINST PUBLIC ADMINISTRATION

§751. Obstructing government administration

1. A person is guilty of obstructing government administration if the person intentionally interferes by force, violence or intimidation or by any physical act with a public servant performing or purporting to perform an official function.

[PL 2003, c. 657, §5 (AMD).]

2. This section does not apply to:

A. Refusal by a person to submit to an arrest or detention; or [PL 1997, c. 351, §2 (AMD).]

B. Escape by a person from official custody, as defined in section 755. [PL 1975, c. 499, §1 (NEW).]

[PL 1997, c. 351, §2 (AMD).]

3. Obstructing government administration is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1997, c. 351, §2 (AMD). PL 2003, c. 657, §5 (AMD).

§751-A. Refusing to submit to arrest or detention

(REPEALED)

SECTION HISTORY

PL 1997, c. 351, §3 (NEW). PL 2001, c. 128, §1 (AMD). PL 2009, c. 449, §1 (RP).

§751-B. Refusing to submit to arrest or detention

1. A person is guilty of refusing to submit to arrest or detention if, with the intent to hinder, delay or prevent a law enforcement officer from effecting the arrest or detention of that person, the person:

A. Refuses to stop on request or signal of a law enforcement officer. Violation of this paragraph is a Class E crime; [PL 2009, c. 449, §2 (NEW).]

B. Uses physical force against the law enforcement officer. Violation of this paragraph is a Class D crime; or [PL 2009, c. 449, §2 (NEW).]

C. Creates a substantial risk of bodily injury to the law enforcement officer. Violation of this paragraph is a Class D crime. [PL 2009, c. 449, §2 (NEW).]

[PL 2009, c. 449, §2 (NEW).]

2. It is a defense to prosecution under this section that the person reasonably believed that the person attempting to effect the arrest or detention was not a law enforcement officer. It is a defense to prosecution under subsection 1, paragraph A that the law enforcement officer acted unlawfully in attempting to effect the arrest or detention.

[PL 2009, c. 449, §2 (NEW).]

SECTION HISTORY

PL 2009, c. 449, §2 (NEW).

§752. Assault on an officer

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§80,81 (AMD). PL 1977, c. 656, §1 (RP).

§752-A. Assault on an officer

1. A person is guilty of assault on an officer if:

A. He intentionally, knowingly or recklessly causes bodily injury to a law enforcement officer while the officer is in the performance of his official duties; or [PL 1977, c. 656, §2 (NEW).]

B. While in custody pursuant to an arrest or pursuant to a court order, the person commits an assault on a corrections officer, corrections supervisor or another member of the staff of an institution while the staff member is performing official duties. As used in this paragraph "assault" means the crime defined in section 207, subsection 1, paragraph A. [PL 2003, c. 205, §4 (AMD).]

[PL 2003, c. 205, §4 (AMD).]

2.

[PL 1997, c. 67, §1 (RP).]

3. Assault on an officer is a Class C crime.

[PL 1977, c. 656, §2 (NEW).]

SECTION HISTORY

PL 1977, c. 656, §2 (NEW). PL 1983, c. 408, §§1,2 (AMD). PL 1997, c. 67, §1 (AMD). PL 2003, c. 205, §4 (AMD).

§752-B. Unlawful interference with law enforcement dogs

1. A person is guilty of unlawful interference with a law enforcement dog if the person intentionally or knowingly:

A. Kills, mutilates or permanently disables any dog that is in fact certified for law enforcement use and that the person knows or reasonably should have known is used for law enforcement purposes. Violation of this paragraph is a Class C crime; or [PL 2005, c. 69, §1 (AMD).]

B. Torments, beats, strikes, injures, temporarily disables or otherwise mistreats any dog that is in fact certified for law enforcement use and that the person knows or reasonably should have known is used for law enforcement purposes. Violation of this paragraph is a Class D crime. [PL 2005, c. 69, §1 (AMD).]

[PL 2005, c. 69, §1 (AMD).]

2. For the purposes of this section, a dog is certified for law enforcement use if the State has certified that the dog has satisfactorily completed requisite training for one or more law enforcement purposes.

[PL 1989, c. 446, §2 (NEW).]

3.

[PL 2001, c. 383, §83 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1989, c. 446, §2 (NEW). PL 2001, c. 383, §§82,83 (AMD). PL 2001, c. 383, §156 (AFF). PL 2005, c. 69, §1 (AMD).

§752-C. Assault on an emergency medical care provider

1. A person is guilty of assault on an emergency medical care provider if that person intentionally, knowingly or recklessly causes bodily injury to an emergency medical care provider while the emergency medical care provider is providing emergency medical care.

[PL 1997, c. 470, §1 (NEW).]

2. As used in this section, "emergency medical care provider" includes hospital personnel assisting in an emergency and emergency medical services persons, defined in Title 32, section 83, subsection 12, but does not include a firefighter as defined in section 752-E, subsection 2.

[PL 2015, c. 471, §1 (AMD).]

3. Assault on an emergency medical care provider is a Class C crime.

[PL 1997, c. 470, §1 (NEW).]

SECTION HISTORY

PL 1997, c. 470, §1 (NEW). PL 2015, c. 471, §1 (AMD).

§752-D. Unlawful interference with law enforcement horses

1. A person is guilty of unlawful interference with a law enforcement horse if the person intentionally or knowingly:

A. Kills, mutilates or permanently disables a horse that the person knows or reasonably should have known is used for law enforcement purposes. Violation of this paragraph is a Class C crime; or [PL 2001, c. 627, §1 (NEW).]

B. Torments, beats, strikes, injures, temporarily disables or otherwise mistreats a horse that the person knows or reasonably should have known is used for law enforcement purposes. Violation of this paragraph is a Class D crime. [PL 2001, c. 627, §1 (NEW).]

[PL 2001, c. 627, §1 (NEW).]

SECTION HISTORY

PL 2001, c. 627, §1 (NEW).

§752-E. Assault on a firefighter

1. A person is guilty of assault on a firefighter if that person intentionally, knowingly or recklessly causes bodily injury to a firefighter while the firefighter is providing emergency services.
[PL 2015, c. 471, §2 (NEW).]

2. As used in this section, "firefighter" means a municipal firefighter or volunteer firefighter as defined in Title 30-A, section 3151, subsections 2 and 4, respectively. As used in this section, "provide emergency services" has the same meaning as in Title 30-A, section 3151, subsection 1-A.
[PL 2015, c. 471, §2 (NEW).]

3. Assault on a firefighter is a Class C crime.
[PL 2015, c. 471, §2 (NEW).]

SECTION HISTORY

PL 2015, c. 471, §2 (NEW).

§753. Hindering apprehension or prosecution

1.

[PL 2001, c. 383, §84 (RP); PL 2001, c. 383, §156 (AFF).]

1-A.

[PL 2001, c. 667, Pt. D, §16 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

1-B. A person is guilty of hindering apprehension or prosecution if, with the intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of another person for the commission of a crime, the person:

A. Harbors or conceals the other person and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime; [PL 2001, c. 667, Pt. D, §17 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

B. Provides or aids in providing a dangerous weapon, transportation, disguise or other means of avoiding discovery or apprehension and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime; [PL 2001, c. 667, Pt. D, §17 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

C. Conceals, alters or destroys any physical evidence that might aid in the discovery, apprehension or conviction of the other person and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime; [PL 2001, c. 667, Pt. D, §17 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

D. Warns the other person of impending discovery or apprehension, except that this paragraph does not apply to a warning given in connection with an effort to bring another person into compliance with the law, and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime; [PL 2001, c. 667, Pt. D, §17 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

E. Obstructs by force, intimidation or deception anyone from performing an act that might aid in the discovery, apprehension, prosecution or conviction of the other person and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime; or [PL 2001, c. 667, Pt. D, §17 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

F. Aids the other person to safeguard the proceeds of or to profit from such crime and:

(1) The actor knew of the conduct of the other person that has in fact resulted in the charge of murder or a Class A crime or that has in fact rendered the other person liable to such a charge. Violation of this subparagraph is a Class B crime;

(2) The conduct of the other person has in fact resulted in the charge of murder or a Class A crime or in fact has rendered the other person liable to such a charge or the other person is charged or is liable to be charged with a Class B crime. Violation of this subparagraph is a Class C crime;

(3) The other person is charged or is liable to be charged with a Class C crime. Violation of this subparagraph is a Class D crime; or

(4) The other person is charged or is liable to be charged with a Class D or Class E crime. Violation of this subparagraph is a Class E crime. [PL 2001, c. 667, Pt. D, §17 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

[PL 2001, c. 667, Pt. D, §17 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

1-C. A person is guilty of hindering apprehension or prosecution if the person hinders the apprehension or prosecution of the other person for a violation of administrative release, probation, supervised release for sex offenders or parole by any means described in subsection 1-B, paragraphs A to F with the intent to hinder, prevent or delay discovery, apprehension, prosecution, revocation or punishment for the violation. The sentencing class for hindering apprehension or prosecution of the other person is one class less than the crime for which the other person was originally sentenced, except that if the crime for which the other person was originally sentenced is a Class E crime, hindering apprehension or prosecution is a Class E crime.

[PL 2017, c. 149, §1 (NEW).]

1-D. A person is guilty of hindering apprehension or prosecution if the person hinders the apprehension or prosecution of the other person for a violation of deferred disposition by any means described in subsection 1-B, paragraphs A to F with the intent to hinder, prevent or delay discovery, apprehension, prosecution, termination of the period of deferment or punishment for the violation or crime to which the other person originally pled guilty. The sentencing class for hindering apprehension or prosecution of the other person is one class less than the crime for which the other person originally pled guilty, except that if the crime to which the other person originally pled guilty is a Class E crime, hindering apprehension or prosecution is a Class E crime.

[PL 2017, c. 149, §1 (NEW).]

2.

[PL 2001, c. 383, §86 (RP); PL 2001, c. 383, §156 (AFF).]

2-A. Hindering apprehension or prosecution when the other person has committed a crime against another jurisdiction is graded as in subsection 1-B. For purposes of this subsection, the classification of the crime of the other jurisdiction is determined according to the formula contained in section 4-A, subsection 3 as if it were a crime of this jurisdiction outside this Code.

[PL 2001, c. 667, Pt. D, §18 (AMD); PL 2001, c. 667, Pt. D, §36 (AFF).]

3. As used in subsection 1-B, "crime" includes juvenile offenses. The sentencing class for hindering the apprehension or prosecution of a juvenile is determined in the same manner as if the juvenile were a person 18 years of age or older, provided that if the offense committed by the juvenile

would not have been a crime if committed by a person 18 years of age or older, hindering apprehension or prosecution is a Class E crime.
[PL 2001, c. 667, Pt. D, §19 (AMD); PL 2001, c. 667, Pt. D, §36 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §§60,61 (AMD). PL 1981, c. 317, §23 (AMD). PL 2001, c. 383, §§84,88 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §§D16-19 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2017, c. 149, §1 (AMD).

§754. Obstructing criminal prosecution

1. A person is guilty of obstructing criminal prosecution if:

A. The person uses force, violence or intimidation, or the person promises, offers or gives any pecuniary benefit or anything of benefit to another, with the intent to induce the other:

(1) To refrain from initiating a criminal prosecution or juvenile proceeding; or

(2) To refrain from continuing with a criminal prosecution or juvenile proceeding that the other person has initiated; or [PL 2019, c. 438, §4 (AMD).]

B. The person solicits, accepts or agrees to accept any pecuniary benefit or anything of benefit to another in consideration of doing any of the things specified in this subsection. [PL 2019, c. 438, §4 (AMD).]
[PL 2019, c. 438, §4 (AMD).]

2. This section does not apply to conduct authorized by Title 15, section 891.
[PL 2001, c. 383, §89 (AMD); PL 2001, c. 383, §156 (AFF).]

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

A. The charge in fact made or liable to be made was for a Class D or Class E crime or a comparable juvenile offense; and [PL 1977, c. 510, §62 (RPR).]

B. The pecuniary benefit did not exceed an amount which the actor believed to be due as restitution or indemnification for harm caused by the offense. [PL 1977, c. 510, §62 (RPR).]
[PL 1977, c. 510, §62 (RPR).]

4. Obstructing criminal prosecution is a Class C crime.
[PL 1977, c. 510, §62 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §62 (RPR). PL 2001, c. 383, §89 (AMD). PL 2001, c. 383, §156 (AFF). PL 2019, c. 438, §4 (AMD).

§755. Escape

1. A person is guilty of escape if without official permission the person intentionally:

A. Leaves official custody or intentionally fails to return to official custody following temporary leave granted for a specific purpose or a limited period. Violation of this paragraph is a Class C crime; or [PL 2001, c. 383, §90 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Violates paragraph A and at the time of the escape the person uses physical force against another person, threatens to use physical force or is armed with a dangerous weapon. Violation of this paragraph is a Class B crime. [PL 2001, c. 383, §90 (NEW); PL 2001, c. 383, §156 (AFF).]
[PL 2001, c. 383, §90 (RPR); PL 2001, c. 383, §156 (AFF).]

1-A.

[PL 2013, c. 133, §6 (RP).]

1-B. A person is guilty of escape from supervised community confinement granted pursuant to Title 34-A, section 3036-A if without official permission the person intentionally:

A. Fails to return to the correctional facility from which transfer was made upon the direction of the Commissioner of Corrections or otherwise intentionally violates a curfew, residence, time or travel restriction. Violation of this paragraph is a Class C crime; or [PL 2003, c. 711, Pt. A, §6 (AMD).]

B. Violates paragraph A and at the time of the escape the person uses physical force against another person, threatens to use physical force or is armed with a dangerous weapon. Violation of this paragraph is a Class B crime. [PL 2001, c. 383, §92 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2003, c. 711, Pt. A, §6 (AMD).]

1-C. A person is guilty of escape from furlough or other rehabilitative program authorized under Title 34-A, section 3035 if the person intentionally:

A. Goes to a location other than that permitted by the terms of the leave. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §93 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Violates paragraph A and at the time of the escape the person uses physical force against another person, threatens to use physical force or is armed with a dangerous weapon. Violation of this paragraph is a Class B crime. [PL 2001, c. 383, §93 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §93 (RPR); PL 2001, c. 383, §156 (AFF).]

1-D. A person is guilty of escape from arrest or escape during transport following arrest if without official permission the arrested person intentionally:

A. Leaves following arrest prior to being transported, or while being transported to a jail, police station or other initial place of detention or to a courthouse when a court has ordered that the person be arrested and transported directly to court. Violation of this paragraph is a Class D crime; or [PL 2005, c. 63, §1 (AMD).]

B. Violates paragraph A and at the time of the escape the person uses physical force against another person, threatens to use physical force or is armed with a dangerous weapon. Violation of this paragraph is a Class B crime. [PL 2001, c. 667, Pt. D, §20 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

[PL 2005, c. 63, §1 (AMD).]

1-E. A person is guilty of escape from the community confinement monitoring program granted pursuant to Title 30-A, section 1659-A if without official permission the person intentionally:

A. Leaves or fails to return within 12 hours to that person's residence or other designated area in which that person is monitored. Violation of this paragraph is a Class C crime; or [PL 2011, c. 464, §15 (NEW).]

B. Violates paragraph A and at the time of the escape the person uses physical force against another person, threatens to use physical force or is armed with a dangerous weapon. Violation of this paragraph is a Class B crime. [PL 2011, c. 464, §15 (NEW).]

A sentence imposed for a violation of this section is subject to the requirements of section 1609.
[PL 2019, c. 113, Pt. C, §62 (AMD).]

2. In the case of escape from arrest, it is a defense that the arresting officer acted unlawfully in making the arrest. In all other cases, it is no defense that grounds existed for release from custody that could have been raised in a legal proceeding.
[PL 1975, c. 499, §1 (NEW).]

3. As used in this section, "official custody" means arrest, custody in, or on the way to or from a courthouse or a jail, police station, house of correction, or any institution or facility under the control

of the Department of Corrections, or under contract with the department for the housing of persons sentenced to imprisonment, the custody of any official of the department, the custody of any institution in another jurisdiction pursuant to a sentence imposed under the authority of section 2303, subsection 3 or any custody pursuant to court order. A person on a parole or probation status is not, for that reason alone, in "official custody" for purposes of this section.
[PL 2019, c. 113, Pt. C, §63 (AMD).]

3-A. The following provisions govern prosecution for escape.

A. Prosecution for escape or attempted escape from any institution included in subsection 3 must be in the county in which the institution is located. [PL 2001, c. 383, §95 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Prosecution for escape or attempted escape of a person who has been transferred from one institution to another must be in the county in which the institution the person was either transferred from or transferred to is located. [PL 2001, c. 383, §95 (NEW); PL 2001, c. 383, §156 (AFF).]

C. Prosecution for an escape or attempted escape for failure to return to official custody following temporary leave granted for a specific purpose or a limited period must be in the county in which the institution from which the leave was granted is located or in any county to which leave was granted. [PL 2001, c. 383, §95 (NEW); PL 2001, c. 383, §156 (AFF).]

D. [PL 2013, c. 133, §7 (RP).]

E. Prosecution for escape or attempted escape from supervised community confinement must be in the county in which the institution from which the transfer to supervised community confinement was granted is located or in any county to which the transfer to supervised community confinement was granted. [PL 2001, c. 383, §95 (NEW); PL 2001, c. 383, §156 (AFF).]

F. Prosecution for escape or attempted escape from the community confinement monitoring program must be in the county in which the institution from which the transfer to the community confinement monitoring program was granted is located or in any county to which the transfer to the community confinement monitoring program was granted. [PL 2011, c. 464, §16 (NEW).]

Notwithstanding other provisions of this section, in all cases of escape, prosecution may be in the county or division in which the person who has escaped was apprehended.
[PL 2013, c. 133, §7 (AMD).]

4.

[PL 2001, c. 383, §96 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§82,83 (AMD). PL 1977, c. 510, §§63,64 (AMD). PL 1979, c. 701, §§24-26 (AMD). PL 1981, c. 493, §3 (AMD). PL 1985, c. 210 (AMD). PL 1985, c. 821, §§1,2 (AMD). PL 1991, c. 845, §§1,2 (AMD). PL 1993, c. 440, §§1,2 (AMD). PL 2001, c. 383, §§90-96 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D20 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 711, §§A5,6 (AMD). PL 2005, c. 63, §1 (AMD). PL 2011, c. 464, §§15, 16 (AMD). PL 2013, c. 133, §§6, 7 (AMD). PL 2019, c. 113, Pt. C, §§62, 63 (AMD).

§756. Aiding escape

1. A person is guilty of aiding escape if, with the intent to aid another person to violate section 755:

A. The person conveys or attempts to convey to the other person any tool or other thing that may be used to facilitate a violation of section 755. Violation of this paragraph is a Class C crime; [PL 2009, c. 608, §5 (AMD).]

A-1. The person conveys or attempts to convey to the other person a dangerous weapon. Violation of this paragraph is a Class B crime; [PL 2009, c. 608, §5 (AMD).]

B. The person furnishes plans, information or other assistance to the other person. Violation of this paragraph is a Class C crime; or [PL 2009, c. 608, §5 (AMD).]

C. The person whose official duties include maintaining persons in official custody, as defined in section 755, subsection 3, permits such violation or an attempt at such violation. Violation of this paragraph is a Class C crime. [PL 2009, c. 608, §5 (AMD).]

[PL 2009, c. 608, §5 (AMD).]

2.

[PL 2009, c. 608, §5 (RP).]

3.

[PL 2001, c. 383, §98 (RP); PL 2001, c. 383, §156 (AFF).]

4. A person may not be indicted or charged in an information with both a violation of this section and as an accomplice to a violation of section 755.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §84 (AMD). PL 1989, c. 706, §1 (AMD). PL 2001, c. 383, §§97,98 (AMD). PL 2001, c. 383, §156 (AFF). PL 2009, c. 142, §4 (AMD). PL 2009, c. 608, §5 (AMD).

§757. Trafficking in prison contraband

1. A person is guilty of trafficking in prison contraband if:

A. That person intentionally conveys or attempts to convey contraband to any person in official custody; or [PL 1989, c. 706, §2 (AMD).]

B. Being a person in official custody, the person intentionally makes, obtains or possesses contraband. [PL 2013, c. 266, §7 (AMD).]

[PL 2013, c. 266, §7 (AMD).]

2. As used in this section, "official custody" has the same meaning as in section 755. As used in this section, "contraband" means a dangerous weapon, any tool or other item that may be used to facilitate a violation of section 755 or anything that a person confined in official custody is prohibited by statute from making, possessing or trafficking in or a scheduled drug as defined in section 1101, subsection 11, unless the drug was validly prescribed to the person in official custody and was approved for use by the person pursuant to the procedures of the custodial agency.

[PL 2011, c. 464, §17 (AMD).]

3. Trafficking in prison contraband is a Class C crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §85 (AMD). PL 1977, c. 510, §65 (AMD). PL 1989, c. 706, §2 (AMD). PL 2009, c. 608, §6 (AMD). PL 2011, c. 464, §17 (AMD). PL 2013, c. 266, §7 (AMD).

§757-A. Trafficking of tobacco in adult correctional facilities

1. A person is guilty of trafficking tobacco in an adult correctional facility if:

A. That person intentionally conveys or attempts to convey tobacco or tobacco products to a person confined in an adult correctional facility that has banned the use of tobacco or tobacco products by prisoners; or [PL 2001, c. 386, §2 (NEW).]

B. That person is confined in an adult correctional facility that has banned the use of tobacco or tobacco products by prisoners and the person intentionally obtains or possesses tobacco or tobacco products. [PL 2001, c. 386, §2 (NEW).]

[PL 2001, c. 386, §2 (NEW).]

2. As used in this section, "adult correctional facility" means a county jail or correctional facility other than a juvenile facility under the control of the Department of Corrections.

[PL 2001, c. 386, §2 (NEW).]

3. Trafficking of tobacco in an adult correctional facility is a Class E crime.

[PL 2001, c. 386, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 386, §2 (NEW).

§757-B. Trafficking of alcoholic beverages in adult correctional facilities

1. A person is guilty of trafficking of an alcoholic beverage in an adult correctional facility if:

A. That person intentionally conveys or attempts to convey an alcoholic beverage to a person confined in an adult correctional facility; or [PL 2005, c. 329, §2 (NEW).]

B. That person is confined in an adult correctional facility and the person intentionally makes, obtains or possesses an alcoholic beverage. [PL 2005, c. 329, §2 (NEW).]

[PL 2005, c. 329, §2 (NEW).]

2. As used in this section, "adult correctional facility" means a county jail or correctional facility other than a juvenile facility under the control of the Department of Corrections.

[PL 2005, c. 329, §2 (NEW).]

3. Trafficking of an alcoholic beverage in an adult correctional facility is a Class E crime.

[PL 2005, c. 329, §2 (NEW).]

SECTION HISTORY

PL 2005, c. 329, §2 (NEW).

§757-C. Trafficking in contraband in a state hospital

1. A person is guilty of trafficking in contraband in a state hospital if:

A. That person intentionally conveys or attempts to convey a dangerous weapon to any patient at a state hospital. Violation of this paragraph is a Class C crime; [PL 2013, c. 191, §1 (NEW).]

B. That person intentionally conveys or attempts to convey contraband other than a dangerous weapon to any patient at a state hospital. Violation of this paragraph is a Class D crime; or [PL 2013, c. 191, §1 (NEW).]

C. Being a patient at a state hospital, that person intentionally makes, obtains or possesses contraband. Violation of this paragraph is a Class D crime. [PL 2013, c. 191, §1 (NEW).]

[PL 2013, c. 191, §1 (NEW).]

2. As used in this section, "contraband" means any tool or other item that may be used to facilitate a violation of section 755, a dangerous weapon or a scheduled drug as defined in section 1101, subsection 11, unless, in the case of a patient at a state hospital, the drug was validly prescribed to the patient and was approved for use by that patient pursuant to the procedures of the state hospital. As

used in this section, "state hospital" means the Riverview Psychiatric Center or the Dorothea Dix Psychiatric Center.
[PL 2013, c. 191, §1 (NEW).]

SECTION HISTORY

PL 2013, c. 191, §1 (NEW).

§758. Obstructing report of crime or injury

1. A person is guilty of obstructing the report of a crime or injury if that person intentionally, knowingly or recklessly disconnects, damages, disables, removes or uses physical force or intimidation to block access to a telephone, radio or other electronic communication device with the intent to obstruct, prevent or interfere with another person's:

A. Report to a law enforcement agency; or [PL 1999, c. 644, §2 (NEW).]

B. Request for an ambulance or emergency medical assistance to a governmental agency, hospital, physician or other medical service provider. [PL 1999, c. 644, §2 (NEW).]
[PL 1999, c. 644, §2 (NEW).]

2. It is an affirmative defense to prosecution under this section that the actor reasonably believed that the actor's conduct was necessary to prevent a false public alarm or report as described in section 509.
[PL 1999, c. 644, §2 (NEW).]

3. Obstructing report of crime or injury is a Class D crime.
[PL 1999, c. 644, §2 (NEW).]

SECTION HISTORY

PL 1999, c. 644, §2 (NEW).

§759. Violation of interstate compact for adult supervision

1. A person is guilty of violating an interstate compact for adult offender supervision if that person, after being convicted and sentenced for a crime in a state that is a member of an interstate compact for adult offender supervision and subsequently released on probation or parole, resides in this State without complying with the requirements of the interstate compact as enacted by the sentencing state.
[PL 2003, c. 706, Pt. B, §1 (NEW).]

2. Violation of an interstate compact for adult offender supervision is a Class D crime.
[PL 2003, c. 706, Pt. B, §1 (NEW).]

SECTION HISTORY

PL 2003, c. 706, §B1 (NEW).

§760. Failure to report sexual assault of person in custody

1. A person is guilty of failure to report a sexual assault of a person in custody if that person is a member of the staff of a hospital, prison or other institution and that staff person knows that a person detained in that institution is the victim of a crime of sexual assault that occurred while the detained person was in the institution and, in fact, that staff person does not report that crime to an appropriate criminal justice agency.
[PL 2005, c. 527, §7 (AMD).]

2. For purposes of this section, "sexual assault" means a crime under chapter 11.
[PL 2005, c. 329, §3 (NEW).]

2-A. It is an affirmative defense to prosecution under this section that the defendant knew that the crime of sexual assault had already been reported to an appropriate criminal justice agency by another mandated reporter.
[PL 2005, c. 527, §8 (NEW).]

3. Failure to report a sexual assault of a person in custody is a Class E crime.
[PL 2005, c. 329, §3 (NEW).]

SECTION HISTORY

PL 2005, c. 329, §3 (NEW). PL 2005, c. 527, §§7,8 (AMD).

CHAPTER 33

ARSON AND OTHER PROPERTY DESTRUCTION

§801. Aggravated arson

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §66 (AMD). PL 1979, c. 322, §1 (RP).

§802. Arson

1. A person is guilty of arson if he starts, causes, or maintains a fire or explosion;

A. On the property of another with the intent to damage or destroy property thereon; or [PL 1975, c. 499, §1 (NEW).]

B. On his own property or the property of another

(1) with the intent to enable any person to collect insurance proceeds for the loss caused by the fire or explosion; or

(2) which recklessly endangers any person or the property of another. [PL 1983, c. 450, §4 (AMD).]

[PL 1983, c. 450, §4 (AMD).]

2. In a prosecution under subsection 1, paragraph B, the requirements of specificity in the charge and proof at the trial otherwise required by law do not include a requirement to allege or prove the ownership of the property. In a prosecution under subsection 1, paragraph A, it is a defense that the actor reasonably believed he had the permission of the property owner to engage in the conduct alleged. In a prosecution under subsection 1, paragraph A, "property of another" has the same meaning as in section 352, subsection 4.
[PL 1975, c. 740, §86 (AMD).]

3. Arson is a Class A crime.
[PL 1979, c. 322, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §86 (AMD). PL 1979, c. 322, §2 (AMD). PL 1983, c. 450, §4 (AMD).

§803. Causing a catastrophe

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1987, c. 361, §1 (AMD). PL 2001, c. 634, §5 (RP).

§803-A. Causing a catastrophe

1. A person is guilty of causing a catastrophe if the person recklessly causes a catastrophe by explosion, fire, flood, avalanche, collapse of a structure, release or dissemination of poison, toxin, radioactive material, bacteria, virus or other biological agent or vector or other such force or substance that is dangerous to human life and difficult to confine.
[PL 2001, c. 634, §6 (NEW).]

2. A person is guilty of causing a catastrophe if the person with terroristic intent violates subsection 1.
[PL 2001, c. 634, §6 (NEW).]

3. As used in this section, the following definitions apply.

A. "Biological agent" means any microorganism, virus, infectious substance, product of biotechnology or component of any such agent, either naturally occurring or bioengineered. [PL 2001, c. 634, §6 (NEW).]

B. "Catastrophe" means:

(1) For purposes of subsection 1, death or serious bodily injury to 10 or more persons or substantial damage to 5 or more structures, whether or not occupied; and

(2) For purposes of subsection 2, death or serious bodily injury to more than one person, substantial damage to 3 or more structures, whether or not occupied, or substantial physical damage sufficient to disrupt the normal functioning of a critical infrastructure. [PL 2001, c. 634, §6 (NEW).]

C. "Poison" means toxic or poisonous chemicals or precursors of toxic or poisonous chemicals. [PL 2001, c. 634, §6 (NEW).]

D. "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi or infectious substances or a recombinant molecule, whatever its origin or method of production, including:

(1) Any poisonous substance or biological product of biotechnology produced by a living organism; or

(2) Any poisonous isomer or biological product, homolog or derivative of such a substance. [PL 2001, c. 634, §6 (NEW).]

E. "Vector" means a living organism or molecule, including a recombinant molecule or any biological product of biotechnology, capable of carrying a biological agent or toxin to a host. [PL 2001, c. 634, §6 (NEW).]
[PL 2001, c. 634, §6 (NEW).]

4. Causing a catastrophe is a Class A crime.
[PL 2001, c. 634, §6 (NEW).]

SECTION HISTORY

PL 2001, c. 634, §6 (NEW).

§804. Failure to control or report a dangerous fire

1. A person is guilty of failure to control or report a dangerous fire if:

A. He starts, causes or maintains a fire or explosion, and knowing that its spread would endanger human life or the property of another, he fails to take reasonable measures to put out or control the fire or to give a prompt fire alarm; [PL 1975, c. 499, §1 (NEW).]

B. Knowing that a fire is endangering a substantial amount of property of another, as to which he has an official, contractual, or other legal duty, he fails to take reasonable measures to put out or control the fire or to give prompt fire alarm; or [PL 1975, c. 499, §1 (NEW).]

C. Knowing that a fire is endangering human life, he fails to take reasonable measures to save life by notifying the persons endangered or by taking reasonable measures to put out or control the fire or by giving a prompt fire alarm. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Failure to control or report a dangerous fire is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§805. Aggravated criminal mischief

1. A person is guilty of aggravated criminal mischief if that person:

A. Intentionally, knowingly or recklessly damages or destroys property of another in an amount exceeding $2,000 in value, having no reasonable ground to believe that the person has a right to do so; [PL 2005, c. 660, §1 (AMD).]

B. Intentionally, knowingly or recklessly damages or destroys property in an amount exceeding $2,000 in value, to enable any person to collect insurance proceeds for the loss caused; [PL 2005, c. 660, §1 (AMD).]

C. Intentionally, knowingly or recklessly damages, destroys or tampers with the property of a law enforcement agency, fire department or supplier of gas, electric, steam, water, transportation, sanitation or communication services to the public, having no reasonable ground to believe that the person has a right to do so, and thereby causes a substantial interruption or impairment of service rendered to the public; [PL 2005, c. 660, §1 (AMD).]

D. Intentionally, knowingly or recklessly damages, destroys or tampers with property of another and thereby recklessly endangers human life; [PL 2005, c. 660, §1 (AMD).]

E. Intentionally, knowingly or recklessly damages or destroys property of another by fire, having no reasonable ground to believe that the person has a right to do so, and the property damaged or destroyed is neither a dwelling place as defined in section 2, subsection 10 nor a structure as defined in section 2, subsection 24; or [PL 2005, c. 660, §1 (AMD).]

F. Intentionally damages, destroys or tampers with the property of another, having no reasonable ground to believe that the person has a right to do so, for the purpose of causing substantial harm to the health, safety, business, calling, career, financial condition, reputation or personal relationships of the person with the property interest or any other person. [PL 2005, c. 660, §1 (NEW).]

[PL 2005, c. 660, §1 (AMD).]

1-A. As used in this section, "property of another" has the same meaning as in section 352, subsection 4.

[PL 1975, c. 740, §87 (NEW).]

1-B. As used in this section, "value", if the property is destroyed, shall be determined pursuant to section 352, subsection 5. If the property is damaged, "value" shall be determined by the cost of repair unless that determination exceeds the determination of the value of the property had it been destroyed, in which case the property shall be deemed destroyed for purposes of this subsection. Amounts of value involved in mischiefs may be aggregated in the same manner as provided in section 352, subsection 5,

paragraph E. Prosecution for an aggregated aggravated criminal mischief may be brought in any venue in which one of the criminal mischiefs which have been aggregated was committed.
[PL 1977, c. 510, §67 (AMD).]

2. Aggravated criminal mischief is a Class C crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §87 (AMD). PL 1977, c. 510, §67 (AMD). PL 1995, c. 224, §8 (AMD). PL 1995, c. 434, §1 (AMD). PL 1995, c. 625, §A20 (AMD). PL 1997, c. 482, §§1-3 (AMD). PL 2005, c. 660, §1 (AMD).

§806. Criminal mischief

1. A person is guilty of criminal mischief if that person intentionally, knowingly or recklessly:

A. Damages or destroys the property of another, having no reasonable grounds to believe that the person has a right to do so; damages or destroys property to enable any person to collect insurance proceeds for the loss caused; or tampers with the property of another, having no reasonable grounds to believe that the person has the right to do so, and thereby impairs the use of that property; [PL 1991, c. 824, Pt. D, §3 (RPR).]

B. Damages, destroys or tampers with property of a law enforcement agency, fire department, or supplier of gas, electric, steam, water, transportation, sanitation or communication services to the public, having no reasonable grounds to believe that the person has a right to do so, and by such conduct recklessly creates a risk of interruption or impairment of services rendered to the public; or [PL 1991, c. 824, Pt. D, §3 (RPR).]

C. Drives or places in any tree or saw log, without the prior consent of the owner, any iron, steel or other substance sufficiently hard to damage saws or wood manufacturing or processing equipment with intent to cause inconvenience, annoyance or alarm to any other person. [PL 1991, c. 824, Pt. D, §3 (RPR).]
[PL 1991, c. 824, Pt. D, §3 (RPR).]

1-A. As used in this section, "property of another" has the same meaning as in section 352, subsection 4.
[PL 1975, c. 740, §89 (NEW).]

2. Criminal mischief is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§88,89 (AMD). PL 1979, c. 289 (AMD). PL 1991, c. 559 (AMD). PL 1991, c. 565 (AMD). PL 1991, c. 824, §D3 (AMD).

§807. Animal enterprise terrorism

(REPEALED)

SECTION HISTORY

PL 1993, c. 83, §1 (NEW). PL 1995, c. 434, §2 (RP).

CHAPTER 35

SEX TRAFFICKING, PROSTITUTION AND PUBLIC INDECENCY

§851. Definitions

As used in this chapter: [PL 1975, c. 499, §1 (NEW).]

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person engaging in prostitution or a 3rd person;
[PL 1995, c. 638, §1 (AMD).]

1-A. "Engages a prostitute" means providing or agreeing to provide, either to the person whose prostitution is sought or to a 3rd person, pecuniary benefit in return for a sexual act or sexual contact as those terms are defined in section 251;
[PL 1995, c. 638, §2 (AMD).]

2. "Promotes prostitution" means:

A. Causing or aiding another to commit or engage in prostitution, other than as a patron; [PL 1995, c. 638, §3 (AMD).]

B. Publicly soliciting patrons for prostitution. Publicly soliciting patrons for prostitution includes, but is not limited to, an offer, made in a public place, to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person making the offer or a 3rd person; [PL 1995, c. 638, §3 (AMD).]

C. Providing persons for purposes of prostitution; [PL 1995, c. 638, §3 (AMD).]

D. Leasing or otherwise permitting a place controlled by the defendant, alone or in association with others, to be regularly used for prostitution; [PL 1995, c. 638, §3 (AMD).]

E. Owning, controlling, managing, supervising or otherwise operating, in association with others, a house of prostitution or a prostitution business; [PL 1995, c. 638, §3 (AMD).]

F. Transporting a person into or within the State with the intent that such other person engage in prostitution; or [PL 1975, c. 499, §1 (NEW).]

G. Accepting or receiving, or agreeing to accept or receive, a pecuniary benefit pursuant to an agreement or understanding with any person, other than with a patron, whereby the person participates or the person is to participate in the proceeds of prostitution. [PL 1995, c. 638, §3 (AMD).]
[PL 1995, c. 638, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 671, §§25-A (AMD). PL 1981, c. 611, §1 (AMD). PL 1989, c. 401, §§B3-5 (AMD). PL 1995, c. 638, §§1-3 (AMD).

§852. Aggravated sex trafficking

1. A person is guilty of aggravated sex trafficking if the person knowingly:

A. Promotes prostitution by compelling a person to enter into, engage in or remain in prostitution; [PL 2013, c. 407, §2 (AMD).]

B. Promotes prostitution of a person less than 18 years old; or [PL 2013, c. 407, §2 (AMD).]

C. Promotes prostitution of a person who suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct involved. [PL 2013, c. 407, §2 (NEW).]
[PL 2013, c. 407, §2 (AMD).]

2. As used in this section, "compelling" includes but is not limited to:

A. The use of a drug or intoxicating substance to render a person incapable of controlling that person's conduct or appreciating its nature; [PL 2011, c. 672, §1 (AMD).]

B. Withholding or threatening to withhold a scheduled drug or alcohol from a drug or alcohol-dependent person. A "drug or alcohol-dependent person" is one who is using scheduled drugs or alcohol and who is in a state of psychic or physical dependence or both, arising from the use of the drug or alcohol on a continuing basis; [PL 2013, c. 407, §2 (AMD).]

C. Making material false statements, misstatements or omissions; [PL 2011, c. 672, §1 (NEW).]

D. Withholding, destroying or confiscating an actual or purported passport or other immigration document or other actual or purported government identification document with the intent to impair a person's freedom of movement; [PL 2011, c. 672, §1 (NEW).]

E. Requiring prostitution to be performed to retire, repay or service an actual or purported debt; and [PL 2011, c. 672, §1 (NEW).]

F. Using force or engaging in any scheme, plan or pattern to instill in a person a fear that, if the person does not engage or continue to engage in prostitution, the actor or another person will:

(1) Cause physical injury or death to a person;

(2) Cause damage to property, other than property of the actor;

(3) Engage in other conduct constituting a Class A, B or C crime or criminal restraint;

(4) Accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person;

(5) Expose a secret or publicize an asserted fact, regardless of veracity, tending to subject some person, except the actor, to hatred, contempt or ridicule;

(6) Testify or provide information or withhold testimony or information regarding another person's legal claim or defense;

(7) Use a position as a public servant to perform some act related to that person's official duties or fail or refuse to perform an official duty in a manner that adversely affects some other person; or

(8) Perform any other act that would not in itself materially benefit the actor but that is calculated to harm the person being compelled with respect to that person's health, safety or immigration status. [PL 2013, c. 407, §2 (AMD).]

[PL 2013, c. 407, §2 (AMD).]

3. Aggravated sex trafficking is a Class B crime.

[PL 2013, c. 407, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1989, c. 431, §1 (AMD). PL 2011, c. 672, §1 (AMD). PL 2013, c. 407, §2 (AMD).

§853. Sex Trafficking

1. A person is guilty of sex trafficking if:

A. The person knowingly promotes prostitution. Violation of this paragraph is a Class D crime; or [PL 2013, c. 407, §3 (NEW).]

B. The person violates paragraph A and has 2 or more prior convictions in this State for any combination of the Maine offenses listed in this paragraph or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. The Maine offenses are any violation of this section or section 852, 853-A, 853-B or 855 or attempts to commit any of these crimes. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2015, c. 360, §1 (AMD).]

[PL 2015, c. 360, §1 (AMD).]

2.

[PL 2013, c. 407, §3 (RP).]

3. It is an affirmative defense to prosecution under this section that the person engaged in sex trafficking because the person was compelled to do so as described in section 852, subsection 2.
[PL 2017, c. 416, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2013, c. 407, §3 (AMD). PL 2015, c. 360, §1 (AMD). PL 2017, c. 416, §3 (AMD).

§853-A. Engaging in prostitution

1. A person who has in fact attained 18 years of age is guilty of engaging in prostitution if:

A. The person engages in prostitution as defined in section 851. Violation of this paragraph is a Class E crime, except that the sentencing alternative may include only the penalties provided in section 1704, subsection 5 and section 1705, subsection 5; or [PL 2019, c. 113, Pt. C, §64 (AMD).]

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class E crime. [PL 2019, c. 316, §1 (AMD).]

[PL 2019, c. 113, Pt. C, §64 (AMD); PL 2019, c. 131, §1 (AMD); PL 2019, c. 316, §1 (AMD).]

2.

[PL 2001, c. 383, §100 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §101 (RP); PL 2001, c. 383, §156 (AFF).]

4. It is an affirmative defense to prosecution under this section that the person engaged in prostitution because the person was compelled to do so as described in section 852, subsection 2.
[PL 2013, c. 537, §5 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 245, §1 (AMD). PL 1987, c. 361, §2 (AMD). PL 1989, c. 431, §2 (AMD). PL 2001, c. 383, §§99,101 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §29 (AMD). PL 2013, c. 537, §5 (AMD). PL 2019, c. 113, Pt. C, §64 (AMD). PL 2019, c. 131, §1 (AMD). PL 2019, c. 316, §1 (AMD).

§853-B. Engaging a prostitute

1. A person is guilty of engaging a prostitute if:

A. The person engages a prostitute within the meaning of section 851, subsection 1-A. Violation of this paragraph is a Class E crime; or [PL 2013, c. 407, §4 (AMD).]

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of the prior

conviction may not precede the commission of the offense by more than 2 years. Violation of this paragraph is a Class D crime. [PL 2007, c. 476, §30 (AMD).]

[PL 2013, c. 407, §4 (AMD).]

2.

[PL 2001, c. 383, §103 (RP); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §104 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1981, c. 611, §2 (NEW). PL 1989, c. 431, §3 (AMD). PL 2001, c. 383, §§102-104 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §30 (AMD). PL 2013, c. 407, §4 (AMD).

§854. Indecent conduct

1. A person is guilty of indecent conduct if:

A. In a public place:

(1) The actor engages in a sexual act, as defined in section 251. Violation of this subparagraph is a Class E crime;

(2) The actor knowingly exposes the actor's genitals under circumstances that in fact are likely to cause affront or alarm. Violation of this subparagraph is a Class E crime;

(3) The actor violates subparagraph (1) and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class D crime; or

(4) The actor violates subparagraph (2) and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this subparagraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this subparagraph is a Class D crime; [PL 2007, c. 476, §31 (AMD).]

B. In a private place, the actor exposes the actor's genitals with the intent that the actor be seen from a public place or from another private place. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §105 (AMD); PL 2001, c. 383, §156 (AFF).]

C. In a private place, the actor exposes the actor's genitals with the intent that the actor be seen by another person in that private place under circumstances that the actor knows are likely to cause affront or alarm. Violation of this paragraph is a Class E crime; [PL 2001, c. 383, §105 (AMD); PL 2001, c. 383, §156 (AFF).]

D. The actor violates paragraph B and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class D crime; or [PL 2007, c. 476, §32 (AMD).]

E. The actor violates paragraph C and the actor has 2 or more prior convictions for any combination of the following: violating this section or section 256 or for engaging in substantially similar conduct to that of the Maine offenses listed in this paragraph in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class D crime. [PL 2007, c. 476, §33 (AMD).]

[PL 2007, c. 476, §§31-33 (AMD).]

2. For purposes of this section "public place" includes, but is not limited to, motor vehicles that are on a public way.
[PL 1995, c. 72, §2 (AMD).]

2-A. It is a defense to prosecution under subsection 1, paragraph C, that the other person previously lived or currently is living in the same household as the actor.
[PL 1995, c. 72, §2 (NEW).]

3.

[PL 2001, c. 383, §106 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §90 (AMD). PL 1989, c. 401, §§B6,B7 (AMD). PL 1995, c. 72, §2 (AMD). PL 1997, c. 256, §1 (AMD). PL 2001, c. 383, §§105,106 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 476, §§31-33 (AMD).

§855. Patronizing prostitution of minor or person with mental disability

1. A person is guilty of patronizing prostitution of a minor if:

A. The person, in return for another's prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought has not in fact attained 18 years of age. Violation of this paragraph is a Class D crime; or [PL 2005, c. 444, §1 (NEW).]

B. The person violates paragraph A and that person knows that the person whose prostitution is sought has not yet attained 18 years of age. Violation of this paragraph is a Class C crime. [PL 2005, c. 444, §1 (NEW).]
[PL 2005, c. 444, §1 (RPR).]

2.

[PL 2005, c. 444, §1 (RP).]

3. A person is guilty of patronizing prostitution of a mentally disabled person if:

A. The person, in return for another's prostitution, gives or agrees to give a pecuniary benefit either to the person whose prostitution is sought or to a 3rd person and the person whose prostitution is sought suffers from a mental disability that is reasonably apparent or known to the actor and that in fact renders the other person substantially incapable of appraising the nature of the conduct or conduct involved. Violation of this paragraph is a Class C crime. [PL 2013, c. 407, §5 (NEW).]
[PL 2013, c. 407, §5 (NEW).]

SECTION HISTORY

PL 1981, c. 245, §2 (NEW). PL 2005, c. 444, §1 (RPR). PL 2013, c. 407, §5 (AMD).

CHAPTER 37

FRAUD

§901. Deceptive business practices

1. A person is guilty of deceptive business practices if, in the course of engaging in a business, occupation or profession, he intentionally:

A. Uses or possesses with the intent to use, a false weight or measure, or any other device which is adjusted or calibrated to falsely determine or measure any quality or quantity; [PL 1975, c. 499, §1 (NEW).]

B. Sells, offers or exposes for sale, or delivers less than the represented quantity of any commodity or service; [PL 1975, c. 499, §1 (NEW).]

C. Takes more than the represented quantity of any commodity or service when as buyer he furnished the weight or measure; [PL 1975, c. 499, §1 (NEW).]

D. Sells, offers or exposes for sale any commodity which is adulterated or mislabelled; [PL 1975, c. 499, §1 (NEW).]

E. [PL 1975, c. 740, §91 (RP).]

F. Sells, offers or exposes for sale a motor vehicle on which the manufacturer's serial number has in fact been altered, removed or obscured; [PL 1975, c. 499, §1 (NEW).]

G. Makes or causes to be made a false statement of material fact in any advertisement addressed to the public or to a substantial number of persons, in connection with the promotion of his business, occupation or profession or to increase the consumption of specified property or service; [PL 1975, c. 499, §1 (NEW).]

H. Offers property or service, in any manner including advertising or other means of communication, as part of a scheme or plan with the intent not to sell or provide the advertised property or services

(1) at all;

(2) at the price or of the quality offered;

(3) in a quantity sufficient to meet the reasonably expected public demand unless the advertisement or communication states the approximate quantity available; or [PL 1975, c. 499, §1 (NEW).]

I. Conducts, sponsors, organizes or promotes a publicly exhibited sports contest with the knowledge that he or another person has tampered with any person, animal or thing that is part of the contest, with the intent to prevent the contest from being conducted in accordance with the rules and usages purporting to govern it, or with the knowledge that any sports official or sports participant has accepted or agreed to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts or that he will perform his duties improperly. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. It is a defense to a prosecution under subsection 1, paragraphs G and H, that a television or radio broadcasting station, or a publisher or printer of a newspaper, magazine or other form of printed material, which broadcasts, publishes or prints a false, misleading advertisement did so without knowledge of the advertiser's intent.

[PL 1975, c. 499, §1 (NEW).]

3. As used in this section:

A. "Adulterated" means varying from the standard of composition or quality prescribed for the substance by statute or by lawfully promulgated administrative regulation, or if none, as set by established commercial usage; [PL 1975, c. 499, §1 (NEW).]

B. "Mislabeled" means having a label or trademark varying from the standard of truth and disclosure in labeling prescribed by statute or lawfully promulgated administrative regulation, or if none, as set by established commercial usage. "Mislabeled" includes but is not limited to counterfeiting or the unauthorized reproducing of a trademark. [PL 1999, c. 767, §1 (AMD).]

C. [PL 1975, c. 740, §92 (RP).]
[PL 1999, c. 767, §1 (AMD).]

3-A. A commodity or item bearing marks in violation of this section or personal property, including, but not limited to, tools, machines, equipment, instrumentalities or vehicles of any kind, employed or used in connection with the violation is contraband and may be seized by a law enforcement officer. A person convicted of a violation of this section forfeits to the State all rights, privileges, interests and claims to property seized under this subsection.
[PL 1999, c. 767, §2 (NEW).]

4. Deceptive business practices is a Class D crime.
[PL 1977, c. 162 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§91,92 (AMD). PL 1977, c. 162 (AMD). PL 1999, c. 767, §§1,2 (AMD).

§901-A. Deceptive insurance practices

1. A person is guilty of deceptive insurance practices if in the course of engaging in the business of insurance that person intentionally makes a false statement with respect to a material fact concerning, or intentionally materially alters, any of the following:

A. A document filed with the Superintendent of Insurance or the insurance regulatory official or agency of another jurisdiction with respect to:

(1) The financial condition of an insurer;

(2) The formation, acquisition, merger, consolidation, dissolution or withdrawal from one or more lines of insurance in all or part of this State by an insurer;

(3) The issuance of written evidence of insurance; or

(4) The reinstatement of an insurance policy; [PL 1997, c. 779, §2 (NEW).]

B. A document submitted by an insured, claimant or applicant to an insurer, insurance producer or other person; or [PL 1997, c. 779, §2 (NEW).]

C. A document or report filed with a law enforcement agency. [PL 1997, c. 779, §2 (NEW).]
[PL 1997, c. 779, §2 (NEW).]

2. A person is guilty of deceptive insurance practices if in the course of engaging in the business of insurance that person intentionally does any of the following:

A. Transacts the business of insurance in this State without proper licensure, certification or authorization; [PL 1997, c. 779, §2 (NEW).]

B. Destroys, conceals, removes or otherwise impairs the verity or availability of any records of an insurer with the intent to deceive; or [PL 1997, c. 779, §2 (NEW).]

C. Solicits or accepts new or renewal insurance risks on behalf of an insurer or the person engaged in the business of insurance by a person who knows or should know that the insurer or other person responsible for the risk is insolvent at the time of the transaction. [PL 1997, c. 779, §2 (NEW).]
[PL 1997, c. 779, §2 (NEW).]

3. Deceptive insurance practices is a Class D crime.
[PL 1997, c. 779, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 779, §2 (NEW).

§902. Defrauding a creditor

1. A person is guilty of defrauding a creditor if:

A. The person destroys, removes, conceals, encumbers, transfers or otherwise deals with property subject to a security interest, as defined in Title 11, section 1-1201, subsection (35), with the intent to hinder enforcement of that interest; or [PL 2009, c. 325, Pt. B, §26 (AMD); PL 2009, c. 325, Pt. B, §27 (AFF).]

B. Knowing that proceedings have been or are about to be instituted for the appointment of an administrator, he

(1) destroys, removes, conceals, encumbers, transfers or otherwise deals with any property with a purpose to defeat or obstruct the claim of any creditor; or

(2) presents in writing to any creditor or to an administrator, any false statement relating to the debtor's estate, knowing that a material part of such statement is false. [PL 1979, c. 512, §29 (AMD).]

[PL 2009, c. 325, Pt. B, §26 (AMD); PL 2009, c. 325, Pt. B, §27 (AFF).]

2. As used in this section, "administrator" means an assignee for the benefit of creditors, a receiver, or trustee in bankruptcy or any other person entitled to administer property for the benefit of creditors. [PL 1979, c. 512, §30 (RPR).]

3. Defrauding a creditor is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §§29,30 (AMD). PL 2009, c. 325, Pt. B, §26 (AMD). PL 2009, c. 325, Pt. B, §27 (AFF).

§903. Misuse of entrusted property

1. A person is guilty of misuse of entrusted property if that person deals with property that has been entrusted to that person as a fiduciary, or property of the government or of a financial institution, in a manner that that person knows is a violation of that person's duty and that involves a substantial risk of loss to the owner or to a person for whose benefit the property was entrusted.
[PL 2013, c. 414, §5 (AMD).]

2. As used in this section "fiduciary" includes any person carrying on fiduciary functions on behalf of an organization that is a fiduciary.
[PL 2013, c. 414, §5 (AMD).]

3. Except as provided in subsection 4, misuse of entrusted property is a Class D crime.
[PL 2013, c. 414, §5 (AMD).]

4. If a misuse of entrusted property results in the loss of a vulnerable person's property or the loss of property entrusted to a person for the benefit of a vulnerable person and, at the time of the offense, the owner or the beneficiary of the property is a vulnerable person:

A. If the value of the property is more than $1,000 but not more than $10,000, the misuse of entrusted property is a Class C crime; and [PL 2013, c. 414, §5 (NEW).]

B. If the value of the property is more than $10,000, the misuse of entrusted property is a Class B crime. [PL 2013, c. 414, §5 (NEW).]

As used in this subsection, "vulnerable person" means an incapacitated adult as defined in Title 22, section 3472, subsection 10 or a dependent adult as defined in Title 22, section 3472, subsection 6.
[PL 2013, c. 414, §5 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2013, c. 414, §5 (AMD).

§904. Private bribery

1. A person is guilty of private bribery if:

A. He promises, offers or gives any pecuniary benefits to

(1) an employee or agent with the intention to influence his conduct adversely to the interest of the employer or principal of the agent or employee;

(2) a hiring agent or an official or employee in charge of employment upon agreement or understanding that a particular person, including the actor, shall be hired, retained in employment or discharged or suspended from employment;

(3) a fiduciary with the intent to influence him to act contrary to his fiduciary duty;

(4) a sports participant with the intent to influence him not to give his best efforts in a sports contest;

(5) a sports official with the intent to influence him to perform his duties improperly;

(6) a person in a position of trust and confidence in his relationship to a 3rd person, with the intention that the trust or confidence will be used to influence the 3rd person to become a customer of the actor, or as compensation for the past use of such influence; or [PL 1975, c. 499, §1 (NEW).]

B. He knowingly solicits, accepts or agrees to accept any benefit, the giving of which would be criminal under subsection 1, paragraph A. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. Private bribery is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§905. Misuse of credit identification

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §31 (AMD). PL 1999, c. 190, §2 (RP).

§905-A. Misuse of identification

1. A person is guilty of misuse of identification if, in order to obtain confidential information, property or services, the person intentionally or knowingly:

A. Presents or uses a credit or debit card that is stolen, forged, canceled or obtained as a result of fraud or deception; [PL 1999, c. 190, §3 (NEW).]

B. Presents or uses an account, credit or billing number that that person is not authorized to use or that was obtained as a result of fraud or deception; or [PL 1999, c. 190, §3 (NEW).]

C. Presents or uses a form of legal identification that that person is not authorized to use. [PL 1999, c. 190, §3 (NEW).]

[PL 1999, c. 190, §3 (NEW).]

2. It is an affirmative defense to prosecution under this section that the person believed in good faith that the person was authorized to present or use the card, number or legal identification.

[PL 1999, c. 190, §3 (NEW).]

3. Proof of actual or constructive notice of cancellation gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person who presented the canceled credit or debit card knew it had been canceled.
[PL 2001, c. 383, §107 (AMD); PL 2001, c. 383, §156 (AFF).]

4. As used in this section, "legal identification" includes a social security card, social security number, birth certificate, driver's license, government-issued identification card, oral statement of full name and date of birth or any other means of identifying a person that is generally accepted as accurate and reliable.
[PL 1999, c. 190, §3 (NEW).]

5. Misuse of identification is a Class D crime.
[PL 1999, c. 190, §3 (NEW).]

SECTION HISTORY

PL 1999, c. 190, §3 (NEW). PL 2001, c. 383, §107 (AMD). PL 2001, c. 383, §156 (AFF).

§905-B. Misuse of scanning device or reencoder

1. A person is guilty of misuse of a scanning device or a reencoder if the person intentionally or knowingly uses a scanning device or a reencoder without the permission of the authorized payment card user whose card information is scanned or reencoded and with the intent to defraud or deceive the authorized payment card user, the issuer of the authorized payment card user's payment card or another person.
[PL 2005, c. 72, §1 (NEW).]

2. As used in this section, the following terms have the following meanings.

A. "Authorized payment card user" means a person with the authority or permission to use a payment card. [PL 2005, c. 72, §1 (NEW).]

B. "Payment card" means a credit card, charge card, debit card, hotel key card or stored value card or any other card that is issued to an authorized payment card user that allows the user to obtain, purchase or receive goods, services, money or anything else of value. [PL 2005, c. 72, §1 (NEW).]

C. "Reencoder" means an electronic device that places encoded information from the computer chip or magnetic strip or stripe of a payment card onto the computer chip or magnetic strip or stripe of another payment card or any electronic medium that allows an authorized transaction to occur. [PL 2005, c. 72, §1 (NEW).]

D. "Scanning device" means a scanner, reader or any other electronic device that is used to access, read, scan, obtain, memorize or store, temporarily or permanently, information encoded on the computer chip or magnetic strip or stripe of a payment card. [PL 2005, c. 72, §1 (NEW).]
[PL 2005, c. 72, §1 (NEW).]

3. Misuse of a scanning device or a reencoder is a Class D crime.
[PL 2005, c. 72, §1 (NEW).]

SECTION HISTORY

PL 2005, c. 72, §1 (NEW).

§905-C. Misuse of public benefits instrument

1. A person is guilty of misuse of a public benefits instrument if the person knowingly:

A. Transfers a public benefits instrument without authorization of the agency issuing the instrument; or [PL 2011, c. 687, §1 (NEW).]

B. Obtains or possesses a public benefits instrument that was obtained without authorization of the agency issuing the instrument. [PL 2011, c. 687, §1 (NEW).]

[PL 2011, c. 687, §1 (NEW).]

2. As used in this section, "public benefits instrument" means electronic benefits transfer cards, coupons, vouchers and any other means for distributing benefits from the following programs:

A. The municipal general assistance program under Title 22, chapter 1161; [PL 2011, c. 687, §1 (NEW).]

B. The TANF program under Title 22, chapter 1053-B; [PL 2011, c. 687, §1 (NEW).]

C. The statewide food supplement program under Title 22, section 3104; [PL 2011, c. 687, §1 (NEW).]

D. The child care subsidies under Title 22, chapter 1052-A; or [PL 2011, c. 687, §1 (NEW).]

E. The Women, Infants and Children Special Supplemental Food Program of the United States Child Nutrition Act of 1966. [PL 2011, c. 687, §1 (NEW).]

[PL 2011, c. 687, §1 (NEW).]

3. Misuse of a public benefits instrument is a Class D crime.

[PL 2011, c. 687, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 687, §1 (NEW).

§906. Use of slugs

1. A person is guilty of use of slugs if:

A. With intent to defraud, he inserts or deposits a slug in a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle; or [PL 1975, c. 499, §1 (NEW).]

B. He makes, possesses or disposes of a slug with intent to enable a person to insert or deposit it in a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. As used in this section, "slug" means an object or article which, by virtue of its size, shape or other quality, is capable of being inserted or deposited as an improper substitute for a genuine coin, bill, pass, key or token in a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle which is designed automatically to offer, provide, assist in providing or permit the acquisition of some property or services in return for the insertion or deposit of a genuine coin, bill, pass, key or token.

[PL 1975, c. 499, §1 (NEW).]

3. Use of slugs is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§907. Possession or transfer of theft devices

1. A person is guilty of possession or transfer of theft devices if:

A. The person possesses or makes any device, instrument, apparatus or other article that is designed or primarily useful for advancing or facilitating the commission of theft, with the intent to use such device, instrument, apparatus or other article to commit any such criminal offense. Violation of

this paragraph is a Class E crime; or [PL 2001, c. 383, §108 (AMD); PL 2001, c. 383, §156 (AFF).]

B. The person transfers or possesses with the intent to transfer any device described in paragraph A that the person knows is designed or primarily useful for the commission of theft. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §108 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §108 (AMD); PL 2001, c. 383, §156 (AFF).]

2.

[PL 2001, c. 383, §109 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1979, c. 512, §32 (NEW). PL 1991, c. 548, §A9 (AMD). PL 1997, c. 372, §2 (AMD). PL 2001, c. 383, §§108,109 (AMD). PL 2001, c. 383, §156 (AFF).

§908. Home construction or repair fraud

1. A home construction or repair seller is guilty of home construction or repair fraud if the seller knowingly enters into an agreement or contract, written or oral, with any person for home construction or repair services and the seller, at the time of entering into that agreement or contract:

A. Intentionally misrepresents a material fact relating to the terms of the agreement or contract or misrepresents a preexisting or existing condition of any portion of the property that is the subject of the home construction or repair services. Violation of this paragraph is a Class D crime; [PL 2017, c. 166, §1 (AMD).]

B. Intentionally creates or reinforces an impression relating to the terms of the agreement or contract that is false and that the seller does not believe to be true or fails to correct such an impression that the seller had previously created or reinforced. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §110 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Intentionally promises performance under the terms of the agreement or contract that the seller does not intend to perform or that the seller knows will not be performed. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §110 (AMD); PL 2001, c. 383, §156 (AFF).]

D. Intentionally uses or employs deception, false pretense or false promise in securing the agreement or contract. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §110 (AMD); PL 2001, c. 383, §156 (AFF).]

E. Knows that the property that is the subject of the home construction or repair services was previously damaged or destroyed by the seller with the intent to obtain the agreement or contract. Violation of this paragraph is a Class D crime; [PL 2017, c. 166, §1 (AMD).]

F. Violates paragraph A and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §34 (AMD).]

G. Violates paragraph B and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §35 (AMD).]

H. Violates paragraph C and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; [PL 2007, c. 476, §36 (AMD).]

I. Violates paragraph D and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime; or [PL 2007, c. 476, §37 (AMD).]

J. Violates paragraph E and the person has 2 or more prior convictions under this section or for engaging in substantially similar conduct to that contained in this section in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence. Violation of this paragraph is a Class C crime. [PL 2007, c. 476, §38 (AMD).]

[PL 2017, c. 166, §1 (AMD).]

2.

[PL 2007, c. 475, §12 (RP).]

3. As used in this section, unless otherwise indicated, the following terms have the following meanings.

A. "Home construction or repair services" means building or constructing a residence and fixing, replacing, altering, converting, modernizing, improving or making an addition to real property primarily designed or used as a residence. "Home construction or repair services" includes not only structural work but also the construction, installation, replacement, improvement and cleaning of driveways, swimming pools, porches, kitchens, chimneys, chimney liners, garages, fences, fall-out shelters, central air conditioning, central heating, boilers, furnaces, hot water heaters, electric wiring, sewers, carpeting, plumbing fixtures, storm doors, storm windows, siding or awnings and other improvements to structures within the residence or upon the land adjacent to the residence, including tree trimming. [PL 2017, c. 166, §1 (AMD).]

B. "Home construction or repair seller" or "seller" means a person, partnership, corporation, business, trust or other legal entity that sells or provides home construction or repair services. [PL 2017, c. 166, §1 (AMD).]

C. "Residence" means a single-family or multifamily dwelling, including a single-family home, apartment building, condominium, duplex or townhouse that is used or intended to be used by its occupants as a dwelling place. [PL 1995, c. 681, §1 (NEW).]

[PL 2017, c. 166, §1 (AMD).]

4.

[PL 2001, c. 383, §111 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1995, c. 681, §1 (NEW). PL 2001, c. 383, §§110,111 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 475, §12 (AMD). PL 2007, c. 476, §§34-38 (AMD). PL 2017, c. 166, §1 (AMD).

§909. Possession or transfer of automated sales suppression device

1. A person is guilty of possession or transfer of an automated sales suppression device if:

A. The person knowingly possesses, purchases or owns any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class D crime; or [PL 2011, c. 526, §1 (NEW).]

B. The person knowingly manufactures, sells, installs or transfers any automated sales suppression device or phantom-ware or possesses, purchases or owns with the intent to sell, install or transfer any automated sales suppression device or phantom-ware. Violation of this paragraph is a Class C crime. [PL 2011, c. 526, §1 (NEW).]

[PL 2011, c. 526, §1 (NEW).]

2. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Automated sales suppression device" means a computer software program, which may be stored on magnetic or optical media, accessed through the Internet or accessed through any other means, that is designed or used to falsify the electronic records of an electronic cash register or other point-of-sale system, including, but not limited to, transaction data and transaction reports. [PL 2011, c. 526, §1 (NEW).]

B. "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling or processing retail sales transaction data. [PL 2011, c. 526, §1 (NEW).]

C. "Phantom-ware" means a hidden, preinstalled or installed programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual 2nd cash register or to eliminate or manipulate transaction records, which may or may not be preserved in digital formats, can represent either the true or the manipulated records of transactions in the electronic cash register and is intended to falsify the electronic records of an electronic cash register or other point-of-sale system. [PL 2011, c. 526, §1 (NEW).]

D. "Transaction data" includes a description of items purchased by a customer; the price for each item; a taxability determination for each item; a segregated tax amount for each taxed item; the amount of cash or credit tendered; the net amount returned to the customer in change; the date and time of the purchase; the name, address and identification number of the vendor; and the receipt or invoice number of the transaction. [PL 2011, c. 526, §1 (NEW).]

E. "Transaction report" means a report that includes, but is not limited to, sales, taxes collected, methods of payment and voided sales at an electronic cash register that is printed on cash register tape at the end of a day or shift or a report that includes every action at an electronic cash register that is stored electronically. [PL 2011, c. 526, §1 (NEW).]

[PL 2011, c. 526, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 526, §1 (NEW).

CHAPTER 39

UNLAWFUL GAMBLING

§951. Inapplicability of chapter

Any person licensed or registered by the Gambling Control Unit as provided in Title 17, chapter 13-A or chapter 62, or authorized to operate or conduct a raffle pursuant to Title 17, section 1837-A, is exempt from the application of the provisions of this chapter insofar as that person's conduct is within the scope of the license or registration. [PL 2017, c. 284, Pt. KKKKK, §32 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §93 (AMD). PL 1989, c. 502, §A48 (AMD). PL 2009, c. 487, Pt. B, §10 (AMD). PL 2017, c. 284, Pt. KKKKK, §32 (AMD).

§952. Definitions

As used in this chapter, the following definitions apply: [PL 1975, c. 499, §1 (NEW).]

1. "Advance gambling activity." A person "advances gambling activity" if, acting other than as a player or a member of the player's family residing with a player in cases in which the gambling takes

place in their residence, he engages in conduct that materially aids any form of gambling activity. Conduct of this nature includes, but is not limited to, bookmaking, conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. A person also advances gambling activity if, having substantial proprietary control or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits that activity to occur or continue, or makes no effort to prevent its occurrence or continuation.
[PL 1975, c. 499, §1 (NEW).]

2. "Bookmaking" means advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.
[PL 1975, c. 499, §1 (NEW).]

3. Contest of chance. "Contest of chance" means any game, contest, scheme or device in which:

A. A person stakes or risks something of value for the opportunity to win something of value; [PL 1995, c. 674, §4 (NEW).]

B. The rules of operation or play require an event the result of which is determined by chance, outside the control of the contestant or participant; and [PL 1995, c. 674, §4 (NEW).]

C. Chance enters as an element that influences the outcome in a manner that can not be eliminated through the application of skill. [PL 1995, c. 674, §4 (NEW).]

For the purposes of this subsection, "an event the result of which is determined by chance" includes but is not limited to a shuffle of a deck or decks of cards, a roll of a die or dice or a random drawing or generation of an object or objects that may include, but are not limited to, a card or cards, a die or dice, a number or numbers or simulations of any of these. A shuffle of a deck or decks of cards, a roll of a die or dice, a random drawing or generation of an object or objects or some other event the result of which is determined by chance that is employed to determine impartially the initial order of play in a game, contest, scheme or device does not alone make a game, contest, scheme or device a game of chance.
[PL 1995, c. 674, §4 (RPR).]

4. "Gambling." A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include bona fide business transactions valid under the law of contracts, including but not limited to contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.
[PL 1975, c. 499, §1 (NEW).]

5. "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of any gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine. However, lottery tickets and other items used in the playing phases of lottery schemes are not gambling devices within this definition.
[PL 1975, c. 499, §1 (NEW).]

5-A. "Illegal gambling machine" means any machine, including electronic devices, however operated:

A. The internal mechanism or components of which when set in motion or activated may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tickets or something of value; [PL 2001, c. 461, §1 (NEW).]

B. That is used to advance gambling activity; [PL 2003, c. 687, Pt. A, §6 (AMD); PL 2003, c. 687, Pt. B, §11 (AFF).]

C. That is not a machine that a person may lawfully operate pursuant to a license that has been issued under Title 17, chapter 62 or that is operated by the Department of Administrative and Financial Services, Bureau of Alcoholic Beverages and Lottery Operations; and [PL 2009, c. 487, Pt. B, §11 (AMD).]

D. That is not a slot machine registered pursuant to Title 8, section 1020 and owned by a slot machine distributor licensed pursuant to Title 8, section 1013. [PL 2003, c. 687, Pt. A, §7 (NEW); PL 2003, c. 687, Pt. B, §11 (AFF).]

[PL 2009, c. 487, Pt. B, §11 (AMD).]

6. "Lottery" means an unlawful gambling scheme in which:

A. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones; and [PL 1975, c. 499, §1 (NEW).]

B. The winning chances are to be determined by a drawing or by some other method based on an element of chance; and [PL 1975, c. 499, §1 (NEW).]

C. The holders of the winning chances are to receive something of value. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

7. "Mutuel" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

[PL 1975, c. 499, §1 (NEW).]

8. "Player" means a person who engages in social gambling solely as a contestant or bettor on equal terms with the other participants therein without receiving or becoming entitled to receive something of value or any profit therefrom other than his personal gambling winnings. "Social gambling" is gambling, or a contest of chance, in which the only participants are players and from which no person or organization receives or becomes entitled to receive something of value or any profit whatsoever, directly or indirectly, other than as a player, from any source, fee, remuneration connected with said gambling, or such activity as arrangements or facilitation of the game, or permitting the use of premises, or selling or supplying for profit refreshments, food, drink service or entertainment to participants, players or spectators. A person who engages in "bookmaking" as defined in subsection 2 is not a "player."

[PL 1975, c. 499, §1 (NEW).]

9. "Profit from gambling activity." A person "profits from gambling activity" if, other than as a player, he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

[PL 1975, c. 499, §1 (NEW).]

10. "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property, or of any interest therein.

[PL 2019, c. 60, §2 (AMD).]

11. "Unlawful" means not expressly authorized by statute. An activity not expressly authorized by statute does not cease to be unlawful solely because it is authorized under federal law or the laws of another state or jurisdiction.
[PL 2011, c. 630, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1995, c. 674, §4 (AMD). PL 2001, c. 461, §1 (AMD). PL 2003, c. 687, §§A6,7 (AMD). PL 2003, c. 687, §B11 (AFF). PL 2009, c. 487, Pt. B, §11 (AMD). PL 2011, c. 630, §2 (AMD). PL 2019, c. 60, §2 (AMD).

§953. Aggravated unlawful gambling

1. A person is guilty of aggravated unlawful gambling if he intentionally or knowingly advances or profits from unlawful gambling activity by:

A. Engaging in bookmaking to the extent that the person receives or accepts in any 24-hour period more than 5 bets totaling more than $500; or [PL 1995, c. 224, §9 (AMD).]

B. Receiving in connection with a lottery or mutuel scheme or enterprise, money or written records from a person other than a player whose chances or plays are represented by such money or records; or [PL 1975, c. 499, §1 (NEW).]

C. Receiving in connection with a lottery, mutuel or other gambling scheme or enterprise more than $1,000 in any 24-hour period played in the scheme or enterprise. [PL 1995, c. 224, §10 (AMD).]
[PL 1995, c. 224, §§9, 10 (AMD).]

2. Aggravated gambling is a Class B crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §94 (AMD). PL 1977, c. 55 (AMD). PL 1995, c. 224, §§9,10 (AMD).

§954. Unlawful gambling

1. Any person is guilty of unlawful gambling if that person intentionally or knowingly advances or profits from unlawful gambling activity.
[PL 2005, c. 663, §13 (AMD).]

1-A. A person is guilty of unlawful gambling if the person is under 21 years of age and plays a slot machine as defined in Title 8, section 1001, subsection 39.
[PL 2005, c. 663, §13 (NEW).]

2. Unlawful gambling is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

3. A person convicted of a violation under this section must forfeit to the State all income associated with that violation.
[PL 2005, c. 663, §13 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §95 (AMD). PL 2005, c. 663, §13 (AMD).

§955. Possession of gambling records

1. A person is guilty of possession of gambling records if, other than as a player, he knowingly possesses any writing, paper, instrument or article, which is being used or is intended by him to be used in the operation of unlawful gambling activity, as defined in this chapter.

[PL 1975, c. 499, §1 (NEW).]

2. Possession of gambling records is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§956. Possession of gambling devices

1. A person is guilty of possession of gambling devices if he manufactures, sells, transports, places, possesses or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of any gambling device, knowing it is to be used in the advancement of unlawful gambling activity, as defined in this chapter.
[PL 1975, c. 499, §1 (NEW).]

2. Possession of gambling devices is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§957. Out-of-state gambling

In any prosecution under this chapter it is not a defense that the gambling activity, including the drawing of a lottery, which is involved in the illegal conduct takes place outside this State and is not in violation of the laws of the jurisdiction in which the lottery or other activity takes place. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§958. Injunctions; recovery of payments

1. When it appears to the Attorney General that any person has formed or published a lottery, or taken any measures for that purpose, or is engaged in selling or otherwise distributing tickets, certificates, shares or interests therein, whether such lottery originated in this State or not, he shall immediately make complaint in the name of the State to the Superior Court for an injunction to restrain such person from further proceedings therein. If satisfied that there is sufficient ground therefor, such court shall forthwith issue such injunction and thereupon it shall order notice to be served on the adverse party to appear and answer to said complaint. Such court, after a full hearing, may dissolve, modify or make perpetual such injunction, make all orders and decrees necessary to restrain and suppress such unlawful proceedings and, if the adverse party neglects to appear, or the final decree of the court is against him, judgment shall be rendered against him for all costs, fees and expenses incurred in the case and for such compensation to the Attorney General for his expenses, as the court deems reasonable.
[PL 1975, c. 499, §1 (NEW).]

2. Payments, compensations and securities of every description, made directly or indirectly in whole or in part, for any such lottery or ticket, certificate, share or interest therein, are received without consideration and against law and equity, and may be recovered.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§959. Illegal gambling machines; forfeiture

1. An illegal gambling machine, including any monetary contents and any associated proceeds, is subject to forfeiture to the State.
[PL 2003, c. 687, Pt. A, §8 (AMD); PL 2003, c. 687, Pt. B, §11 (AFF).]

2. An illegal gambling machine, any monetary contents and any associated proceeds may be declared forfeited under this section by any court that has jurisdiction over the illegal gambling machine or final jurisdiction over any related criminal proceeding brought under this chapter or by the Superior Court for Kennebec County. Property subject to forfeiture may be kept or stored at any location within the territorial boundaries of the State and is subject to the authority of any court in which a petition seeking the forfeiture of that property is filed.
[PL 2003, c. 687, Pt. A, §8 (AMD); PL 2003, c. 687, Pt. B, §11 (AFF).]

3. Forfeitures under this section must be accomplished by the following procedure.

A. A district attorney or the Attorney General may petition the Superior Court in the name of the State in the nature of a proceeding in rem to order forfeiture of an illegal gambling machine, any monetary contents and any associated proceeds. The petition must be filed in the court having jurisdiction over the property. [PL 2005, c. 207, §2 (AMD).]

B. The proceeding under paragraph A is an in rem civil action, in which the State has the burden of proving all material facts by a preponderance of the evidence. [PL 2001, c. 461, §2 (NEW).]

C. A court shall order the State to give notice of the pendency of the action and the right to be heard by certified or registered mail or through hand delivery by a deputy sheriff to any person who appears to have an interest in the illegal gambling machine, any monetary contents and any associated proceeds. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles. [PL 2005, c. 207, §2 (AMD).]

D. A court shall hold a hearing on the petition after an answer is filed by a person served with notice under paragraph C. At the hearing, the court shall hear evidence and make findings of fact and enter conclusions of law. [PL 2011, c. 559, Pt. A, §20 (AMD).]

E. Based on the findings and conclusions, the court shall issue a final order, from which the parties have a right of appeal. The final order must provide for disposition of the illegal gambling machine, any monetary contents and any associated proceeds by the State. Any revenue generated by the disposition of the illegal gambling machine, any monetary contents of the machine and any associated proceeds must be used to pay the reasonable expenses of the forfeiture proceedings, seizure, storage, maintenance of custody, advertising and notice. The balance, if any, must be deposited in the General Fund. [PL 2005, c. 207, §2 (AMD).]
[PL 2011, c. 559, Pt. A, §20 (AMD).]

4. Any law enforcement officer, department or agency having custody of an illegal gambling machine, any monetary contents of an illegal gambling machine or any associated proceeds or having disposed of the illegal gambling machine, any monetary contents or any associated proceeds shall keep and maintain during the pendency of the action full and complete records in accordance with this subsection. Upon issuance by the court of a final order ordering the disposition, destruction or return of the illegal gambling machine, any monetary contents or any associated proceeds, the officer, department or agency must transmit a copy of those records to the Department of Public Safety for inclusion into a centralized record.

A. The records must show:

(1) From whom the illegal gambling machine, any monetary contents and any associated proceeds were received;

(2) Under what authority the illegal gambling machine, any monetary contents and any associated proceeds are held, received or disposed of;

(3) To whom the illegal gambling machine, any monetary contents and any associated proceeds are delivered;

(4) The date and manner of destruction or disposition of the illegal gambling machine; and

(5) The exact kinds, quantities and forms of illegal gambling machines, the exact amount of any monetary contents of any machine and the exact amount of any associated proceeds held in custody or disposed of. [PL 2005, c. 207, §2 (AMD).]

B. The records must be open to inspections by all federal and state officers authorized by the laws of the United States, a state or territory of the United States or a foreign nation to investigate or prosecute gambling laws. [PL 2001, c. 461, §2 (NEW).]

C. The Department of Public Safety is responsible for maintaining a centralized record of illegal gambling machines seized. At least quarterly, the department shall provide a report of the disposition of property previously held by the department to the Commissioner of Administrative and Financial Services and the legislative Office of Fiscal and Program Review for review. These records must include an estimate of the fair market value of items seized. [PL 2001, c. 461, §2 (NEW).]

[PL 2005, c. 207, §2 (AMD).]

5. Persons making final disposition or destruction of an illegal gambling machine, its monetary contents or any associated proceeds under court order shall report, under oath, to the court the exact circumstances of the destruction or disposition.

[PL 2005, c. 207, §2 (AMD).]

6. An illegal gambling machine together with any monetary contents and any associated proceeds is contraband and may be seized by any law enforcement officer pursuant to subsection 7 or 8.

[PL 2005, c. 207, §2 (AMD).]

7. At the request of the State ex parte, a court may issue any preliminary order or process necessary to seize or secure the property for which forfeiture is sought and provide for its custody.

A. Process for seizure of the property for which forfeiture is sought under this section may issue only upon a showing of probable cause. The application for process for seizure of the property and the issuance, execution and return of the process are subject to the provisions of applicable state law. [PL 2001, c. 461, §2 (NEW).]

B. Any property subject to forfeiture under this section may be seized upon process. [PL 2001, c. 461, §2 (NEW).]

[PL 2001, c. 461, §2 (NEW).]

8. Seizure of property forfeited under this section without process may be made when seizure is incident to a legal search or inspection if a law enforcement officer has probable cause to believe the property seized is an illegal gambling machine.

[PL 2001, c. 461, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 461, §2 (NEW). PL 2003, c. 687, §A8 (AMD). PL 2003, c. 687, §B11 (AFF). PL 2005, c. 207, §2 (AMD). PL 2011, c. 559, Pt. A, §20 (AMD).

§960. Criminal forfeiture

1. A person convicted of a violation of this chapter forfeits to the State all rights, privileges, interests and claims to property that is subject to forfeiture pursuant to section 959. All rights,

privileges, interest and title in property subject to forfeiture under this section vest in the State upon the commission of the act giving rise to forfeiture pursuant to section 959.
[PL 2001, c. 461, §2 (NEW).]

2. Property subject to forfeiture that is not yet the subject of a final order pursuant to section 959 may be proceeded against by indictment or superseding indictment of a grand jury in any related criminal proceeding in which one or more persons with an interest in the property have been simultaneously indicted for one or more violations of this chapter. At any time prior to trial, the State, with the consent of the court and any defendant with an interest in the property, may file an ancillary charging instrument or information alleging that that property is subject to criminal forfeiture. Upon commencement of a criminal forfeiture by indictment or information of any property that may be the subject of any pending civil action commenced pursuant to section 959, the civil action must be immediately stayed and subrogated to the criminal forfeiture action. Discovery in the criminal action must be as provided by the Maine Rules of Unified Criminal Procedure.
[PL 2015, c. 431, §36 (AMD).]

3. Property subject to forfeiture that has not already been seized but has been indicted by a grand jury pursuant to this section may also be ordered seized based upon the grand jury's finding of probable cause pursuant to section 959.
[PL 2001, c. 461, §2 (NEW).]

4. Trial against property charged by indictment or information may be by jury and must be held in a single proceeding together with the trial of the related criminal violation. Forfeiture of the property must be proved by the State by a preponderance of the evidence. The court, in its discretion, may allow any defendant with an interest in property indicted pursuant to this section to waive the right to trial by jury as against the property while preserving the right to trial by jury of any crime alleged. At trial by jury, the court, upon motion of a defendant or the State, may separate the trial of the matter against the defendant from the trial of the matter against the property subject to criminal forfeiture. If the court bifurcates the jury trial, the court shall first instruct and submit to the jury the issue of the guilt or innocence of defendants to be determined by proof beyond a reasonable doubt and shall restrict argument of counsel to those issues. After a verdict upon the guilt or innocence of all defendants, the court shall instruct and submit to the jury the issue of the forfeiture of the property to be determined by proof by a preponderance of the evidence and the court shall restrict argument to those issues. A special verdict must be returned as to the extent of the interest in property subject to forfeiture, if any.
[PL 2001, c. 461, §2 (NEW).]

5. A person not charged in an indictment under this section may not intervene in the criminal action. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State shall provide written notice of its intent to dispose of the property to any person known to have alleged an interest in the property. The notice may be by certified, return receipt mail or as otherwise ordered by the court. Receipt by a person then licensed to operate a motor vehicle in the State is presumed when notice is mailed to the last known address of that person on file with the Department of the Secretary of State, Bureau of Motor Vehicles. A person other than the defendant asserting a legal interest in the property within 30 days of the date of receipt of the notice may petition the court for a hearing to adjudicate the validity of any alleged interest in the property. The hearing must be held before the court without jury. The request for the hearing must be signed by the petitioner under penalty of perjury and must state the nature and extent of the petitioner's right, title or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title or interest in the property, any additional facts supporting the petitioner's claim and the relief sought. The court shall issue or amend a final order of forfeiture in accordance with its determination if, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that:

A. The petitioner has a legal right, title or interest in the property and the right, title or interest renders the order of forfeiture invalid in whole or in part because the right, title or interest was vested in the petitioner rather than any defendant or was superior to any right, title or interest to the exclusion of any defendant at the time of the commission of the acts that gave rise to the forfeiture of the property under this section; and [PL 2001, c. 461, §2 (NEW).]

B. The petitioner is a bona fide purchaser for value of the right, title or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section. [PL 2001, c. 461, §2 (NEW).]

[PL 2011, c. 559, Pt. A, §21 (AMD).]

6. Following the entry of a verdict of forfeiture of property pursuant to this section or the entry of a guilty plea in open court on the record, the State has clear title to property that is the subject of the indictment or information and order of forfeiture and may order all or a portion of the property forfeited to the State to be disposed of pursuant to section 959.

[PL 2001, c. 461, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 461, §2 (NEW). PL 2011, c. 559, Pt. A, §21 (AMD). PL 2015, c. 431, §36 (AMD).

§961. Construction

Sections 959 and 960 must be liberally construed to effectuate their remedial purposes. [PL 2001, c. 461, §2 (NEW).]

SECTION HISTORY

PL 2001, c. 461, §2 (NEW).

CHAPTER 41

CRIMINAL USE OF EXPLOSIVES AND RELATED CRIMES

§1001. Criminal use of explosives

1. A person is guilty of criminal use of explosives if he intentionally or knowingly:

A. Without right, throws or places explosives into, against or upon any real or personal property; [PL 1975, c. 499, §1 (NEW).]

B. Makes, imports, transports, sends, stores, sells or offers to sell any explosives without a proper permit under the regulations, or in violation of the regulations; [PL 1975, c. 499, §1 (NEW).]

C. Sells or supplies explosives to, or buys, procures or receives explosives for, a person prohibited by the regulations from receiving explosives; or [PL 1975, c. 499, §1 (NEW).]

D. Possesses explosives with the intent to do any of the acts prohibited in this section. [PL 1975, c. 499, §1 (NEW).]

[PL 1975, c. 499, §1 (NEW).]

2. As used in this section:

A. "Explosives" means gunpowders, powders used for blasting all forms of high explosives, blasting materials, fuses (other than electric circuit breakers), detonators and other detonating agents, smokeless powders and any chemical compounds, mechanical mixtures or other ingredients in such proportions, quantities or packing that ignition by fire, by friction, by chemical reaction, by concussion, by percussion, by detonation or deflagration of the compound or material or any part thereof may cause an explosion; and [PL 2003, c. 535, §1 (AMD).]

B. "Regulations" means the rules, regulations, ordinances and bylaws issued by lawful authority pursuant to Title 25, section 2472. [PL 1999, c. 652, §1 (AMD).]

[PL 2003, c. 535, §1 (AMD).]

3. Criminal use of explosives is a Class C crime.

[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1999, c. 652, §1 (AMD). PL 2003, c. 535, §1 (AMD).

§1002. Criminal use of disabling chemicals

1. A person is guilty of criminal use of disabling chemicals if he intentionally sprays or otherwise uses upon any other person chemical mace or any similar substance composed of a mixture of gas and chemicals which has or is designed to have a disabling effect upon human beings.

[PL 1975, c. 499, §1 (NEW).]

2. Criminal use of disabling chemicals is a Class D crime.

[PL 1975, c. 499, §1 (NEW).]

3. This section shall not apply to the use of those disabling chemicals when that use is for the purpose of:

A. Defending a person under section 108; [PL 1979, c. 55 (NEW).]

B. Defending premises under section 104; or [PL 1979, c. 55 (NEW).]

C. Retaking property, preventing that taking or preventing criminal mischief under section 105; [PL 1979, c. 55 (NEW).]

as authorized for the use of nondeadly force.

[PL 1979, c. 55 (RPR).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 55 (AMD).

§1002-A. Criminal use of laser pointers

1. A person is guilty of criminal use of a laser pointer if the person intentionally, knowingly or recklessly points a laser pointer at another person, while the laser pointer is emitting a laser beam, and:

A. Causes bodily injury to that other person. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §112 (AMD); PL 2001, c. 383, §156 (AFF).]

B. That other person is a law enforcement officer in uniform. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §112 (AMD); PL 2001, c. 383, §156 (AFF).]

C. Causes a reasonable person to suffer intimidation, annoyance or alarm. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §112 (AMD); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §112 (AMD); PL 2001, c. 383, §156 (AFF).]

2. For the purposes of this section, "laser pointer" means a hand-held device that emits a visible light beam amplified by the stimulated emission of radiation.

[PL 1999, c. 163, §1 (NEW).]

3. It is a defense to a prosecution under this section that at the time of the laser pointer's use the person who intentionally, knowingly or recklessly pointed a laser pointer at another person was justified under chapter 5 in threatening or using physical force upon the other person.

[PL 1999, c. 163, §1 (NEW).]

4. As part of every judgment of conviction and sentence imposed, every laser pointer that constitutes the basis for conviction under this section must be forfeited to the State and the court shall so order, unless another person can satisfy the court prior to the judgment and by a preponderance of the evidence that such other person had a right to possess the laser pointer, to the exclusion of the defendant, at the time of the offense.
[PL 2001, c. 383, §113 (AMD); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1999, c. 163, §1 (NEW). PL 2001, c. 383, §§112,113 (AMD). PL 2001, c. 383, §156 (AFF).

§1003. Criminal use of noxious substance

1. A person is guilty of criminal use of noxious substance if he intentionally deposits on the premises or in the vehicle or vessel of another, without his consent, any stink bomb or other device or substance which releases or is designed to release noxious offensive odors.
[PL 1975, c. 499, §1 (NEW).]

2. Criminal use of noxious substance is a Class E crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1004. Criminal use of electronic weapon

1. Except as provided in subsection 4, a person is guilty of criminal use of an electronic weapon if the person intentionally, knowingly or recklessly uses an electronic weapon upon any other person.
[PL 2005, c. 264, §1 (NEW).]

2. As used in this section, "electronic weapon" means a portable device or weapon from which an electrical current, impulse, wave or beam may be directed, which current, impulse, wave or beam is designed to have a disabling effect upon human beings.
[PL 2005, c. 264, §1 (NEW).]

3. Criminal use of an electronic weapon is a Class D crime.
[PL 2005, c. 264, §1 (NEW).]

4. This section does not apply to the use of an electronic weapon by:

A. A law enforcement officer, corrections officer or corrections supervisor engaged in the performance of the law enforcement officer's, corrections officer's or corrections supervisor's public duty if the officer's or corrections supervisor's appointing authority has authorized such use of an electronic weapon; or [PL 2005, c. 264, §1 (NEW).]

B. A person using an electronic weapon when that use is for the purpose of:

(1) Defending that person or a 3rd person as authorized under section 108, subsection 2; or

(2) Defending that person's dwelling place as authorized under section 104, subsections 3 and 4. [PL 2009, c. 336, §12 (AMD).]

[PL 2009, c. 336, §12 (AMD).]

SECTION HISTORY

PL 2005, c. 264, §1 (NEW). PL 2009, c. 336, §12 (AMD).

CHAPTER 43

WEAPONS

§1051. Possession of machine gun

1. A person is guilty of possession of a machine gun if, without authority to do so, he knowingly possesses a machine gun.
[PL 1975, c. 499, §1 (NEW).]

2. As used in this chapter, "machine gun" means a weapon of any description, by whatever name known, loaded or unloaded, which is capable of discharging a number of projectiles in rapid succession by one manual or mechanical action on the trigger or firing mechanism.
[PL 1975, c. 499, §1 (NEW).]

3. Possession of a machine gun is a Class D crime.
[PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1052. Right to possess, carry or transport machine gun

Any law enforcement officer of the State of Maine, any law enforcement officer of another state or a territory of the United States, members of the Armed Forces, Maine National Guard and Maine State Guard may possess a machine gun if the possession or carrying of such weapon is in the discharge of his official duties and has been authorized by his appointing authority. [PL 1975, c. 499, §1 (NEW).]

Machine guns manufactured, acquired, transferred or possessed in accordance with the National Firearms Act, as amended, shall be exempt from this chapter. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1053. Confiscation and seizure of machine gun

Any machine gun possessed in violation of section 1051 is declared to be contraband and is subject to forfeiture to the State. Any law enforcement officer shall have the power to seize the same with due process. [PL 1975, c. 499, §1 (NEW).]

When a machine gun is seized as provided, the officer seizing the same shall immediately file with the judge before whom such warrant is returnable, a libel against the machine gun, setting forth the seizure and describing the machine gun and the place of seizure in a sufficient manner to reasonably identify it, that it was possessed in violation of law and pray for a decree of forfeiture thereof. Such judge shall fix a time for the hearing of such libel and shall issue his monition and notice of same to all persons interested, citing them to appear at the time and place appointed to show cause why such machine gun should not be declared forfeited, by causing true and attested copies of said libel and monition to be posted in 2 public and conspicuous places in the town and place where such machine gun was seized, 10 days at least before said libel is returnable. In addition, a true and attested copy of the libel and monition shall be served upon the person from whom said machine gun was seized and upon the owner thereof, if their whereabouts can be readily ascertained 10 days at least before said libel is returnable. In lieu of forfeiture proceedings, title to such seized machine gun may be transferred in writing to the State of Maine by the owner thereof. If title to and ownership in the machine gun is transferred to the State, a receipt for the machine gun shall be given to the former owner by the law enforcement officer who seized the machine gun. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1054. Forfeiture of machine gun

If no claimant for a machine gun seized under the authority of section 1053 appears, the judge shall, on proof of notice, declare the same to be forfeited to the State. If any person appears and claims such machine gun, as having a right to the possession thereof at the time when the same was seized, he shall file with the judge a claim in writing stating specifically the right so claimed, the foundation thereof, the item so claimed, any exemption claimed, the time and place of the seizure and the name of the law enforcement officer who seized the machine gun, and in it declare that it was not possessed in violation of this chapter, and state his business and place of residence and sign and make oath to the same before said judge. If any person so makes claim, he shall be admitted as a party to the process, and the libel, and may hear any pertinent evidence offered by the libelant or claimant. If the judge is, upon hearing, satisfied that said machine gun was not possessed in violation of this chapter, and that claimant is entitled to the custody thereof, he shall give an order in writing, directed to the law enforcement officer having seized the same, commanding him to deliver to the claimant the machine gun to which he is so found to be entitled, within 48 hours after demand. If the judge finds the claimant not entitled to possess the machine gun, he shall render judgment against him for the libelant for costs, to be taxed as in civil cases before such judge, and issue execution thereon, and shall declare such machine gun forfeited to the State. The claimants may appear and shall recognize with sureties as on appeals in civil actions from a judge. The judge may order that the machine gun remain in the custody of the seizing law enforcement officer, pending the disposition of the appeal. All machine guns declared forfeited to the State, or title to which have been transferred to the State in lieu of forfeiture proceedings shall be turned over to the Chief of the Maine State Police. If said machine gun is found to be of a historic, artistic, scientific or educational value, the State Police may retain the machine gun for an indefinite period of time. Any other machine gun declared forfeited and in possession of the State Police shall be destroyed by a means most convenient to the Chief of the State Police. [PL 1975, c. 499, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW).

§1055. Possession or distribution of dangerous knives

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2011, c. 31, §1 (AMD). PL 2011, c. 464, §18 (AMD). PL 2015, c. 23, §1 (RP).

§1056. Possession of armor-piercing ammunition

1. A person is guilty of possession of armor-piercing ammunition if, without authority to do so, the person knowingly possesses armor-piercing ammunition other than as part of a bona fide collection. [PL 1993, c. 457, §1 (AMD).]

2. As used in this chapter, "armor-piercing ammunition" means a projectile or projectile core that may be used in a handgun and that is constructed entirely, excluding the presence of traces of other substances, from one or a combination of tungsten alloys, steel, iron, brass, beryllium copper or depleted uranium, including but not limited to ammunition commonly known as KTW ammunition. "Armor-piercing ammunition" does not include shotgun shot required by federal or state environmental or game laws, rules or regulations for hunting purposes, a frangible projectile designed for target shooting or any projectile or projectile core found by the United States Secretary of the Treasury or the secretary's delegate, pursuant to 27 Code of Federal Regulations, Section 178.148 or Section 178.149, to be:

A. Primarily intended to be used for sporting purposes; or [PL 1993, c. 457, §1 (NEW).]

B. Used for industrial purposes, including a charge used in an oil and gas well perforating device. [PL 1993, c. 457, §1 (NEW).]

[PL 1993, c. 457, §1 (AMD).]

3. Possession of armor-piercing ammunition is a Class C crime.
[PL 1993, c. 457, §1 (AMD).]

4. This section does not apply to members of the United States Armed Forces, the United States Reserve Forces or the National Guard, or to law enforcement officers or agencies or forensic laboratories, in the course of duty or employment.
[PL 1993, c. 457, §1 (AMD).]

SECTION HISTORY

PL 1983, c. 430 (NEW). PL 1993, c. 457, §1 (AMD).

§1057. Possession of firearms in an establishment licensed for on-premises consumption of liquor

1. A person is guilty of criminal possession of a firearm if:

A. Not being a law enforcement officer or a professional investigator licensed under Title 32, chapter 89 and actually performing as a professional investigator, the person possesses any firearm on the premises of a licensed establishment posted to prohibit or restrict the possession of firearms in a manner reasonably likely to come to the attention of patrons, in violation of the posted prohibition or restriction; or [PL 2011, c. 366, §2 (AMD).]

B. While under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level, the person possesses a firearm in a licensed establishment. [PL 2009, c. 447, §18 (AMD).]
[PL 2011, c. 366, §2 (AMD).]

2. For the purposes of this section, "licensed establishment" means a licensed establishment as defined by Title 28-A, section 2, subsection 15, the license for which is held by an on-premise retail licensee, as defined by Title 28-A, section 2, subsection 27, paragraph B. For the purposes of this section, "premises" has the same meaning as set forth in Title 28-A, section 2, subsection 24.
[PL 1989, c. 917, §2 (NEW).]

3. It is not a defense to a prosecution under subsection 1 that the person holds a permit to carry a concealed handgun issued under Title 25, chapter 252.
[PL 2015, c. 329, Pt. B, §1 (RPR).]

4. A law enforcement officer who has probable cause to believe that a person has violated subsection 1, paragraph B, may require that person to submit to chemical testing to determine an alcohol level or drug concentration. If the court is satisfied that the law enforcement officer had probable cause to believe that the defendant was in violation of subsection 1, paragraph B, and that the person was informed of the requirement to submit to chemical testing, the person's failure to comply with the requirement to submit to chemical testing is admissible evidence on the issue of whether that person was under the influence of intoxicating liquor or drugs.
[PL 2009, c. 447, §19 (AMD).]

5. For purposes of this section, "under the influence of intoxicating liquor or drugs or a combination of liquor and drugs or with an excessive alcohol level" has the same meaning as "under the influence of intoxicants" as defined in Title 29-A, section 2401, subsection 13. "Excessive alcohol level" means an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. Standards, tests and procedures applicable in determining whether a person is under the influence or has an excessive alcohol level within the meaning of this section are those applicable pursuant to Title 29-A, sections 2411 and 2431; except that the suspension of a permit to carry concealed handguns issued pursuant to Title 25, chapter 252, or of the authority of a professional investigator licensed to carry a concealed handgun pursuant to Title 32, chapter 89, is as provided in those chapters.

[PL 2011, c. 691, Pt. A, §17 (RPR).]

6. Criminal possession of a firearm is a Class D crime. In addition, as part of every judgment of conviction and sentence imposed, the court shall:

A. Revoke any permit to carry a concealed firearm issued to the person so convicted; and [PL 1989, c. 917, §2 (NEW).]

B. If the person so convicted is licensed as a professional investigator, suspend for a period of 5 years that person's permit to carry a concealed firearm. [PL 2011, c. 366, §4 (AMD).]

A person convicted of a violation of this section is not eligible to obtain or apply for a permit to carry a concealed firearm for 5 years from the date of that conviction.
[PL 2011, c. 366, §4 (AMD).]

SECTION HISTORY

PL 1989, c. 917, §2 (NEW). PL 1995, c. 65, §A57 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 2009, c. 447, §§18-20 (AMD). PL 2011, c. 298, §§2, 3 (AMD). PL 2011, c. 366, §§2-4 (AMD). PL 2011, c. 394, §2 (AMD). PL 2011, c. 691, Pt. A, §17 (AMD). PL 2015, c. 329, Pt. B, §1 (AMD).

§1058. Unauthorized possession of firearm in courthouse

1. A person is guilty of unauthorized possession of a firearm in a courthouse if that person in fact possesses a firearm in a courthouse.
[PL 2005, c. 527, §9 (AMD).]

2. This section does not apply to:

A. A law enforcement officer, a corrections officer or a corrections supervisor engaged in the performance of the law enforcement officer's, corrections officer's or corrections supervisor's public duty; [PL 2007, c. 466, Pt. C, §6 (AMD).]

B. A person possessing an unloaded firearm for the purpose of offering the firearm as evidence in a civil or criminal proceeding if the presiding judge or justice has granted prior approval in writing to the person and the person possesses a copy of the written approval; or [PL 2007, c. 466, Pt. C, §6 (AMD).]

C. An employee of a courier or security service in the course and scope of employment for the courier or security service, as approved by the judicial marshal. [PL 2013, c. 147, §1 (AMD).]
[PL 2013, c. 147, §1 (AMD).]

2-A. It is not a defense to a prosecution under this section that the person holds a valid permit to carry a concealed handgun issued under Title 25, chapter 252.
[PL 2013, c. 424, Pt. A, §7 (AMD).]

3. Unauthorized possession of a firearm in a courthouse is a Class D crime.
[PL 2005, c. 527, §9 (AMD).]

SECTION HISTORY

PL 2005, c. 175, §1 (NEW). PL 2005, c. 527, §9 (AMD). PL 2007, c. 466, Pt. C, §6 (AMD). PL 2013, c. 147, §1 (AMD). PL 2013, c. 424, Pt. A, §7 (AMD).

CHAPTER 45

DRUGS

§1101. Definitions

As used in this Title, the following words shall, unless the context clearly requires otherwise, have the following meanings. [PL 1975, c. 499, §1 (NEW).]

1. "Marijuana" includes the leaves, stems, flowers and seeds of all species of the plant genus cannabis, whether growing or not; but does not include the resin extracted from any part of such plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin including hashish and does not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture or preparation of such mature stalks, fiber, oil or cake or the sterilized seed of such plant that is incapable of germination. "Marijuana" does not include hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.
[PL 2019, c. 528, §2 (AMD).]

1-A.
[PL 2013, c. 341, §1 (RP).]

1-B.
[PL 2013, c. 341, §2 (RP).]

2. "Hypodermic apparatus," hypodermic syringe, hypodermic needle or any instrument designed or adapted for the administration of any drug by injection.
[PL 1975, c. 499, §1 (NEW).]

3. "Isomer," the optical isomer, except wherever appropriate, the optical, position or geometric isomer.
[PL 1975, c. 499, §1 (NEW).]

3-A.
[PL 2013, c. 341, §3 (RP).]

3-B.
[PL 2013, c. 341, §4 (RP).]

4. "Manufacture," to produce, prepare, propagate, compound, convert or process, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis.
[PL 1975, c. 499, §1 (NEW).]

4-A. "Methamphetamine precursor drug" means any drug or product possessed by a person that contains in the aggregate a quantity of more than 9 grams of ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, in dry or solid nonliquid form.
[PL 2005, c. 430, §1 (NEW); PL 2005, c. 430, §10 (AFF).]

5. "Hashish" includes the resin extracted from any part of the cannabis plant and every compound, manufacture, salt, derivative, mixture or preparation from such resin. "Hashish" does not include the resin extracted from hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D.
[PL 2019, c. 528, §3 (AMD).]

6. "Narcotic drug," any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

A. Opium and any opiate, and any salt, compound, derivative or preparation of opium or opiate; [PL 1975, c. 499, §1 (NEW).]

B. Any salt, compound, isomer, ester, ether, derivative or preparation thereof which is chemically equivalent or identical to or with any of the substances referred to in paragraph A, but not including the isoquinoline alkaloids of opium; or [PL 1975, c. 499, §1 (NEW).]

C. Opium poppy and poppy straw. [PL 1975, c. 499, §1 (NEW).]
[PL 1975, c. 499, §1 (NEW).]

7. "Opiate."

A. Any substance having an analgesic and addiction forming or addiction sustaining property or liability similar to morphine or capable of conversion into a drug having such analgesic and addiction forming or addiction sustaining property or liability. [PL 1975, c. 499, §1 (NEW).]

B. This term does not include, unless specifically designated or listed in Schedule W, X, Y or Z, the dextrorotatory isomer or 3-methoxy-n-methyl-morphinan and its salts, dextromethorphan, but does include its racemic and levorotatory forms. [PL 1975, c. 499, §1 (NEW).]
[PL 1975, c. 499, §1 (NEW).]

8. "Opium poppy," the plant of the species Papaver somniferum L., except its seeds.
[PL 1975, c. 499, §1 (NEW).]

9. "Poppy straw," all parts, except the seeds, of the opium poppy, after mowing.
[PL 1975, c. 499, §1 (NEW).]

10. "Prescription drug" means a drug which:

A. Under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) "Caution: Federal law prohibits dispensing without prescription."; or

(2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."; or [PL 1989, c. 384, §1 (NEW).]

B. Is required by an applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only. [PL 1989, c. 384, §1 (NEW).]
[PL 1989, c. 384, §1 (RPR).]

11. "Scheduled drug," any drug named or described in section 1102, schedule W, X, Y or Z.
[PL 1975, c. 499, §1 (NEW).]

12. "Schedule W drug," any drug named, listed or described in section 1102, schedule W.
[PL 1975, c. 499, §1 (NEW).]

13. "Schedule X drug," any drug named, listed or described in section 1102, schedule X.
[PL 1975, c. 499, §1 (NEW).]

14. "Schedule Y drug," any drug named, listed or described in section 1102, schedule Y.
[PL 1975, c. 499, §1 (NEW).]

15. "Schedule Z drug," any drug named, listed or described in section 1102, schedule Z.
[PL 1975, c. 499, §1 (NEW).]

16. "State laboratory," a laboratory of any state agency which is capable of performing any or all of the analyses that may be required to establish that a substance is a scheduled or a counterfeit drug, including, but not limited to, the laboratory of the State Department of Health and Human Services and any such laboratory that may be established within the Department of Public Safety.
[PL 1975, c. 499, §1 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

16-A.

[PL 2013, c. 194, §5 (RP).]

17. "Traffick":

A. To make, create, manufacture; [PL 1975, c. 499, §1 (NEW).]

B. To grow or cultivate, except for marijuana; [PL 1999, c. 374, §1 (AMD).]

C. To sell, barter, trade, exchange or otherwise furnish for consideration; [PL 1999, c. 453, §1 (AMD).]

D. To possess with the intent to do any act mentioned in paragraph C; [PL 2015, c. 346, §1 (AMD).]

E. To possess 2 grams or more of heroin or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin; or [PL 2015, c. 346, §1 (AMD).]

F. To possess 2 grams or more of fentanyl powder or 90 or more individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder. [PL 2015, c. 346, §1 (NEW).]
[PL 2015, c. 346, §1 (AMD).]

18. "Furnish":

A. To furnish, give, dispense, administer, prescribe, deliver or otherwise transfer to another; [PL 1975, c. 499, §1 (NEW).]

B. To possess with the intent to do any act mentioned in paragraph A; [PL 2015, c. 346, §2 (AMD).]

C. To possess more than 200 milligrams but less than 2 grams of heroin or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing heroin; or [PL 2015, c. 496, §1 (AMD).]

D. To possess more than 200 milligrams but less than 2 grams of fentanyl powder or at least 45 but fewer than 90 individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder. [PL 2015, c. 496, §2 (AMD).]
[PL 2015, c. 496, §§1, 2 (AMD).]

19. "Imitation scheduled drug," a substance that is not a scheduled drug and which was not obtained by valid medical prescription, but which, by dosage unit appearance or by representations made, would lead a reasonable person to believe that the substance was a scheduled drug.
[PL 1981, c. 603, §1 (NEW).]

20. "Dosage unit," that unit of measurement which is equivalent to an average adult dose.
[PL 1981, c. 603, §1 (NEW).]

21. "Cultivate" means to sow a seed; to grow, raise or tend a plant; to harvest a plant; or to knowingly possess a plant.
[PL 1999, c. 239, §1 (NEW).]

22.
[PL 2019, c. 528, §4 (RP).]

22-A. "Hemp" has the same meaning as in Title 7, section 2231, subsection 1-A, paragraph D.
[PL 2019, c. 528, §5 (NEW).]

23. "Safe zone" means an athletic field, park, playground or recreational facility that is designated as a safe zone by a municipality pursuant to Title 30-A, section 3253.
[PL 2005, c. 415, §1 (NEW).]

24. "Fentanyl powder" means any compound, mixture or preparation, in granular or powder form, containing fentanyl or any derivative of fentanyl listed in section 1102, subsection 1, paragraph I in any quantity.
[PL 2017, c. 274, §1 (AMD).]

25. Cocaine. "Cocaine" means:

A. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine and their salts have been removed; or [PL 2017, c. 432, Pt. E, §1 (NEW).]

B. A mixture or preparation that contains any quantity of any of the following substances:

(1) Cocaine, its salts, optical and geometric isomers and salts of isomers;

(2) Ecgonine, its derivatives, their salts, isomers and salts of isomers; or

(3) Cocaine base, which is the alkaloid form of cocaine. [PL 2017, c. 432, Pt. E, §1 (NEW).]
[PL 2017, c. 432, Pt. E, §1 (NEW).]

26. Heroin. "Heroin" means any compound, mixture or preparation containing heroin (diacetylmorphine) in any quantity.
[PL 2017, c. 432, Pt. E, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 293, §4 (AMD). PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§96,97 (AMD). PL 1977, c. 647, §1 (AMD). PL 1981, c. 603, §1 (AMD). PL 1983, c. 775 (AMD). PL 1989, c. 384, §1 (AMD). PL 1997, c. 481, §1 (AMD). PL 1999, c. 239, §1 (AMD). PL 1999, c. 374, §1 (AMD). PL 1999, c. 453, §§1-5 (AMD). PL 2003, c. 61, §1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 415, §1 (AMD). PL 2005, c. 430, §1 (AMD). PL 2005, c. 430, §10 (AFF). PL 2011, c. 428, §§1-4 (AMD). PL 2011, c. 428, §9 (AFF). PL 2011, c. 465, §5 (AMD). PL 2011, c. 578, §§1, 2 (AMD). PL 2013, c. 194, §5 (AMD). PL 2013, c. 341, §§1-4 (AMD). PL 2015, c. 346, §§1-3 (AMD). PL 2015, c. 496, §§1, 2 (AMD). PL 2017, c. 274, §1 (AMD). PL 2017, c. 432, Pt. E, §1 (AMD). PL 2019, c. 12, Pt. B, §2 (AMD). PL 2019, c. 528, §§2-5 (AMD).

§1102. Schedules W, X, Y and Z

For the purposes of defining crimes under this chapter and of determining the penalties therefor, there are hereby established the following schedules, designated W, X, Y and Z. [PL 2001, c. 419, §2 (AMD).]

1. Schedule W:

A. Unless listed or described in another schedule, any amphetamine, or its salts, isomers, or salts of isomers, including but not limited to methamphetamine, or its salts, isomers, or salts of isomers; [PL 1975, c. 499, §1 (NEW).]

B. Unless listed or described in another schedule, or unless made a nonprescription drug by federal law, barbituric acid or any derivative of barbituric acid, or any salt of barbituric acid or of a derivative of barbituric acid, including but not limited to amobarbital, butabarbital, pentobarbital, secobarbital, thiopental, and methohexital; [PL 1975, c. 499, §1 (NEW).]

C. [PL 1975, c. 740, §98 (RP).]

D. [PL 1975, c. 740, §98 (RP).]

E. [PL 1975, c. 740, §98 (RP).]

F. Cocaine; [PL 2017, c. 432, Pt. E, §2 (RPR).]

G. Phenmetrazine and its salts; [PL 1975, c. 499, §1 (NEW).]

H. Methylphenidate or its salts; [PL 1975, c. 740, §99 (RPR).]

I. Unless listed or described in another schedule, any compound, mixture or preparation containing narcotic drugs in any quantity, including, but not limited to, the following narcotic drugs or their salts, isomers or salts of isomers: heroin (diacetylmorphine); methadone; methadone hydrochloride; levo-alpha-acetyl-methadol, or LAAM; pethidine; opium; morphine; oxycodone;

hydrocodone; hydromorphone; buprenorphine; U-47700; W-18; W-15; AH-7921; carfentanil; sufentanil; fentanyl powder; and any derivative of fentanyl powder by any substitution on or replacement of the phenethyl group, any substitution on the piperidine ring, any substitution on or replacement of the propanamide group, any substitution on the phenyl group or any combination thereof, including, but not limited to, despropionyl fentanyl, furanylfentanyl, fluorofentanyl, 4-fluoroisobutyryl fentanyl, acetylfentanyl and any methylfentanyl derivatives; [PL 2017, c. 274, §2 (AMD).]

J. Phencyclidine; [PL 1989, c. 924, §2 (AMD).]

K. Lysergic acid diethylamide, and its salts, isomers and salts of isomers; [PL 1989, c. 924, §3 (NEW).]

L. Lysergic acid; [PL 1997, c. 487, §1 (AMD).]

M. Lysergic acid amide; [PL 2001, c. 419, §4 (AMD).]

N. Flunitrazepam or its chemical equivalent; [PL 2013, c. 194, §6 (AMD).]

O. Unless listed or described in another schedule, the following hallucinogenic drugs or their salts, isomers and salts of isomers whenever the existence of the salts, isomers and salts of isomers is possible within the chemical designation:

(1) 3, 4 - methylenedioxy amphetamine, MDA;

(2) 5 methoxy - 3, 4 methylenedioxy amphetamine, MMDA;

(3) 3, 4, 5 - trimethoxy amphetamine, TMA;

(4) 4 - methyl - 2, 5 - dimethoxyamphetamine, DOM;

(5) 2, - 3 methylenedioxyamphetamine;

(6) 2, 5 - dimethoxyamphetamine, DMA;

(7) 4 - bromo - 2, 5 - dimethoxyamphetamine, DOB;

(8) 4 methoxyamphetamine;

(9) 3, 4 - methylenedioxymethamphetamine, MDMA;

(10) 4 - bromo - 2, 5 - dimethoxyphenethylamine, NEXUS;

(11) 3, 4 - methylenedioxy-N-ethylamphetamine, MDE;

(12) Paramethoxymethamphetamine, PMMA;

(13) Paramethoxyamphetamine, PMA; and

(14) Paramethoxyethylamphetamine, PMEA ; and [PL 2013, c. 194, §7 (AMD).]

P. Unless listed or described in another schedule, the following synthetic hallucinogenic drugs:

(1) 3, 4 - methylenedioxymethcathinone, MDMC;

(2) 3, 4 - methylenedioxypyrovalerone, MDPV;

(3) 4 - methylmethcathinone, 4-MMC;

(4) 4 - methoxymethcathinone, bk-PMMA, PMMC;

(5) 3 - fluoromethcathinone, FMC;

(6) 4 - fluoromethcathinone, FMC;

(7) Napthylpyrovalerone, NRG-1;

(8) Beta-keto-N-methylbenzodioxolylpropylamine;

(9) 4 - methylethcathinone, 4-MEC;

(10) Butylone;

(11) Eutylone;

(12) Pentedrone;

(13) Pentylone;

(14) 2, 5 - dimethoxy-4-ethylphenethylamine; or

(15) A derivative of cathinone, including any compound, material, mixture, preparation or other product, structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

(a) By substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

(b) By substitution at the 3-position with an acyclic alkyl substituent; or

(c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl or methoxybenzyl groups or by inclusion of the 2-amino nitrogen atom in a cyclic structure.

This subparagraph does not include a drug listed in section 1102 or a drug approved by the United States Food and Drug Administration. [PL 2013, c. 194, §8 (NEW).]

[PL 2017, c. 432, Pt. E, §2 (AMD).]

2. Schedule X:

A. Unless listed or described in another schedule, any of the following drugs having depressant effect on the central nervous system

(1) Chlorhexadol

(2) Sulfondiethylmethane

(3) Sulfonethylmethane

(4) Sulfonmethane [PL 1975, c. 499, §1 (NEW).]

B. Nalorphine; [PL 1975, c. 499, §1 (NEW).]

C. Unless listed in another schedule, any of the following hallucinogenic drugs, or their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation

(1) Bufotenine

(2) Ibogaine

(3) Mescaline, including but not limited to peyote

(4) N-methyl-3-piperidyl benzilate

(5) N-ethyl-3-piperidyl benzilate

(6) Psilocybin

(7) Psilocyn

(8) Hashish; [PL 1977, c. 649, §2 (AMD).]

D. [PL 2001, c. 419, §7 (RP).]

E. Methaqualone or its salts; [PL 1975, c. 499, §1 (NEW).]

F. Methprylon; [PL 1975, c. 499, §1 (NEW).]

G. Glutethimide. [PL 1975, c. 499, §1 (NEW).]

H. Unless listed or described in another schedule, the following hallucinogenic drugs or their salts, isomers and salts of isomers whenever the existence of the salts, isomers and salts of isomers is possible within the specific chemical designation:

(5) Diethyltryptamine, DET;

(6) Dimethyltryptamine, DMT;

(7) Dipropyltryptamine, DPT; and

(12) Alpha-ethyltryptamine, AET. [PL 2001, c. 419, §8 (AMD).]

I. [PL 1989, c. 924, §5 (RP).]

J. [PL 1989, c. 924, §6 (RP).]

K. Diethylpropion or its salts; [PL 2001, c. 419, §9 (AMD).]

L. Gamma hydroxybutyrate, GHB, and its salts, isomers and salts of isomers; [PL 2001, c. 419, §10 (NEW).]

M. Ketamine and its salts, isomers and salts of isomers; and [PL 2001, c. 419, §10 (NEW).]

N. The following substances, if intended for human ingestion:

(1) Gamma butyrolactone, GBL, and its salts, isomers and salts of isomers; or

(2) One, 4-butanediol, BD, and its salts, isomers and salts of isomers. [PL 2001, c. 419, §10 (NEW).]

[PL 2001, c. 419, §§7-10 (AMD).]

3. Schedule Y:

A. Barbital or its salts; [PL 1975, c. 740, §101 (AMD).]

B. Chloral betaine; [PL 1975, c. 499, §1 (NEW).]

C. Ethchlorvynol; [PL 1975, c. 499, §1 (NEW).]

D. Ethinamate; [PL 1975, c. 499, §1 (NEW).]

E. Methohexital or its salts; [PL 1975, c. 740, §101 (AMD).]

F. Methylphenobarbital or its salts; [PL 1975, c. 740, §101 (AMD).]

G. Paraldehyde; [PL 1975, c. 499, §1 (NEW).]

H. Petrichloral; [PL 1975, c. 499, §1 (NEW).]

I. Phenobarbital or its salts; [PL 1975, c. 740, §101 (AMD).]

J. Codeine (methylmorphine) or its salts; [PL 1975, c. 740, §101 (AMD).]

K. Any compound, mixture or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredient in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone

(1) not more than 2.5 milligrams of diphenoxylate with not less than 25 micrograms of atropin sulfate per dosage unit; [PL 1975, c. 499, §1 (NEW).]

L. Meprobamate; [PL 1975, c. 740, §101 (AMD).]

M. Ergot or any salt, compound or derivative of ergot unless listed in another schedule; [PL 1975, c. 740, §101 (AMD).]

N. Flurazepam or its salts; [PL 1975, c. 499, §1 (NEW).]

O. Chlordiazepoxide or its salts; [PL 1975, c. 499, §1 (NEW).]

P. Diazepam; [PL 1975, c. 499, §1 (NEW).]

Q. Carbromal; [PL 1975, c. 499, §1 (NEW).]

R. Chloralhydrate; [PL 1975, c. 499, §1 (NEW).]

S. Fenfluramine or its salts; [PL 1975, c. 740, §101 (NEW).]

T. [PL 1977, c. 649, §5 (RP).]

U. Phentermine or its salts. [PL 1975, c. 740, §101 (NEW).]
[PL 1977, c. 649, §5 (AMD).]

4. Schedule Z:

A. All prescription drugs other than those included in schedules W, X or Y; [PL 1975, c. 499, §1 (NEW).]

B. Marijuana; [PL 1975, c. 499, §1 (NEW).]

C. All nonprescription drugs other than those included in schedules W, X or Y as the Maine Board of Pharmacy shall duly designate; [PL 1989, c. 924, §7 (AMD); PL 1997, c. 245, §19 (AMD).]

D. Butyl nitrite or isobutyl nitrite; [PL 2011, c. 428, §5 (AMD); PL 2011, c. 428, §9 (AFF).]

E. A methamphetamine precursor drug; and [PL 2011, c. 428, §6 (AMD); PL 2011, c. 428, §9 (AFF).]

F. [PL 2013, c. 341, §5 (RP).]

G. Synthetic cannabinoids, including:

(1) Tetrahydrocannabinols that are naturally contained in a plant of the genus cannabis or a cannabis plant, excluding tetrahydrocannabinols contained in hemp as defined in Title 7, section 2231, subsection 1-A, paragraph D, as well as synthetic equivalents of the substances contained in the cannabis plant or in the resinous extracts of cannabis or synthetic substances, derivatives and their isomers with similar chemical structure and pharmacological activity, including the following:

(a) Delta-1 cis or trans tetrahydrocannabinol and their optical isomers;

(b) Delta-6 cis or trans tetrahydrocannabinol and their optical isomers; or

(c) Delta-3,4 cis or trans tetrahydrocannabinol and their optical isomers;

(2) Naphthoylindoles, including any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following:

(a) 1-Pentyl-3-(1-naphthoyl)indole or JWH-018 or AM-678;

(b) 1-Butyl-3-(1-napthoyl)indole or JWH-073;

(c) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole or JWH-081;

(d) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole or JWH-200;

(e) 1-Propyl-2-methyl-3-(1-naphthoyl)indole or JWH-015;

(f) 1-Hexyl-3-(1-naphthoyl)indole or JWH-019;

(g) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole or JWH-122;

(h) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole or JWH-210;

(i) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole or JWH-398; or

(j) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole or AM-2201;

(3) Naphthylmethylindoles, including any compound containing a H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including the following:

(a) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane or JWH-175; or

(b) 1-Pentyl-1H-3-yl-(4-methyl-1-naphthyl)methane or JWH-184;

(4) Naphthoylpyrroles, including any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone or JWH-307;

(5) Naphthylideneindenes or naphthylmethylindenes, including any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent, including E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane or JWH-176;

(6) Phenylacetylindoles, including any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including the following:

(a) 1-(2-cyclohexylethyl)-3-(2-methoxypheylacetyl)indole or RCS-8;

(b) 1-Pentyl-3-(2-methoxyphenylacetyl)indole or JWH-250;

(c) 1-Pentyl-3-(2-methylphenylacetyl)indole or JWH-251; or

(d) 1-Pentyl-3-(2-chlorophenylacetyl)indole, or JWH-203;

(7) Cyclohexylphenols, including any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not substituted in the cyclohexyl ring to any extent, and their isomers with similar chemical structure and pharmacological activity, including the following:

(a) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol or CP 47,497;

(b) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol or Cannabicyclohexanol or CP 47,497-C8 homologue; or

(c) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol or CP 55,490;

(8) Benzoylindoles, including any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including the following:

(a) 1-Pentyl-3-(4-methoxybenzoyl)indole or RCS-4;

(b) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole or AM-694; or

(c) (4-Methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-y]methanone or WIN-48,098 or Pravadoline; and

(9) The following other unclassified synthetic cannabinoids:

(a) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol or HU-210;

(b) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol or Dexanabinol or HU-211;

(c) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl-1-naphthalenylmethanone or WIN 55,212-2; or

(d) (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone or XLR-11. [PL 2019, c. 528, §6 (AMD).]

[PL 2019, c. 528, §6 (AMD).]

5.

[PL 2013, c. 194, §9 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§98-101 (AMD). PL 1977, c. 649, §§1-5 (AMD). PL 1987, c. 747, §§1,2 (AMD). PL 1989, c. 334, §§1,2 (AMD). PL 1989, c. 924, §§1-7 (AMD). PL 1995, c. 499, §2 (AMD). PL 1995, c. 499, §5 (AFF). PL 1995, c. 635, §1 (AMD). PL 1997, c. 245, §19 (AMD). PL 1997, c. 487, §§1,2 (AMD). PL 2001, c. 419, §§2-10 (AMD). PL 2005, c. 430, §§2,3 (AMD). PL 2005, c. 430, §10 (AFF). PL 2007, c. 55, §1 (AMD). PL 2011, c. 428, §§5-7 (AMD). PL 2011, c. 428, §9 (AFF). PL 2013, c. 194, §§6-9 (AMD). PL 2013, c. 341, §§5, 6 (AMD). PL 2015, c. 330, §1 (AMD). PL 2015, c. 492, §1 (AMD). PL 2017, c. 274, §2 (AMD). PL 2017, c. 432, Pt. E, §2 (AMD). PL 2019, c. 528, §6 (AMD).

§1103. Unlawful trafficking in scheduled drugs

1.

[PL 2001, c. 383, §114 (RP); PL 2001, c. 383, §156 (AFF).]

1-A. Except as provided in subsection 1-B, a person is guilty of unlawful trafficking in a scheduled drug if the person intentionally or knowingly trafficks in what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

B. A schedule X drug. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

C. Marijuana in a quantity of 20 pounds or more. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

D. Marijuana and the person grows or cultivates 500 or more plants. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

E. Marijuana in a quantity of more than one pound. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

F. Marijuana and the person grows or cultivates 100 or more plants. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

G. A schedule Y drug. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

H. A schedule Z drug. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §115 (NEW); PL 2001, c. 383, §156 (AFF).]

1-B. A person is not guilty of unlawful trafficking in a scheduled drug if the conduct that constitutes the trafficking is either:

A. Expressly authorized by Title 22, Title 28-B or Title 32; or [PL 2017, c. 409, Pt. B, §3 (AMD).]

B. Expressly made a civil violation by Title 22 or Title 28-B. [PL 2017, c. 409, Pt. B, §3 (AMD).]

[PL 2017, c. 409, Pt. B, §3 (AMD).]

2.

[PL 2001, c. 383, §116 (RP); PL 2001, c. 383, §156 (AFF).]

3. Proof that the person intentionally or knowingly possesses any scheduled drug that is in fact of a quantity, state or concentration as provided in this subsection, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is unlawfully trafficking in scheduled drugs:

A. More than one pound of marijuana; [PL 1997, c. 481, §3 (AMD).]

B. Fourteen grams or more of cocaine or 4 grams or more of cocaine in the form of cocaine base; [PL 1999, c. 790, Pt. A, §19 (AMD).]

C. [PL 1999, c. 790, Pt. A, §20 (RP).]

D. Lysergic acid diethylamide in any of the following quantities, states or concentrations:

(1) Any compound, mixture, substance or solution in a liquid state that contains a detectable quantity of lysergic acid diethylamide;

(2) Fifty or more squares, stamps, tablets or units of any compound, mixture or substance containing a detectable quantity of lysergic acid diethylamide; or

(3) Any quantity of any compound, mixture or substance that, in the aggregate, contains 2,500 micrograms or more of lysergic acid diethylamide; [PL 2001, c. 419, §11 (AMD).]

E. Fourteen grams or more of methamphetamine; [PL 2001, c. 419, §12 (AMD).]

F. Ninety or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin; [PL 2001, c. 419, §13 (NEW).]

G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 800 milligrams or more of oxycodone or 100 milligrams or more of hydromorphone; or [PL 2001, c. 419, §13 (NEW).]

H. Fourteen grams or more of or 30 or more pills, capsules, tablets or units containing 3, 4 - methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O or P. [PL 2015, c. 346, §4 (AMD).]

[PL 2015, c. 346, §4 (AMD).]

4.

[PL 1989, c. 344, §3 (RP).]

5.

[PL 1999, c. 442, §1 (RP).]

6. If a person uses a motor vehicle to facilitate the trafficking of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license. The Secretary of State may not reinstate the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[PL 1993, c. 674, §2 (NEW).]

7. It is an affirmative defense to prosecution under this section that the substance trafficked in is hemp.

[PL 2019, c. 12, Pt. B, §3 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 647, §§2,3 (AMD). PL 1979, c. 127, §128 (AMD). PL 1987, c. 164, §§1,2 (AMD). PL 1987, c. 535, §§1,2 (AMD). PL 1989, c. 334, §3 (AMD). PL 1989, c. 336 (AMD). PL 1989, c. 344, §1 (AMD). PL 1989, c. 384, §2 (AMD). PL 1989, c. 850, §§2,3 (AMD). PL 1989, c. 924, §§8,9 (AMD). PL 1991, c. 548, §A10 (AMD). PL 1993, c. 674, §§1,2 (AMD). PL 1995, c. 635, §2 (AMD). PL 1997, c. 481, §§2,3 (AMD). PL 1999, c. 374, §§2,3 (AMD). PL 1999, c. 422, §§1-3 (AMD). PL 1999, c. 442, §1 (AMD). PL 1999, c. 453, §§6,7 (AMD). PL 1999, c. 790, §§A19,20 (AMD). PL 2001, c. 383, §§114-117 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 419, §§11-13 (AMD). PL 2003, c. 61, §2 (AMD). PL 2015, c. 346, §4 (AMD). PL 2017, c. 409, Pt. B, §3 (AMD). PL 2019, c. 12, Pt. B, §3 (AMD).

§1104. Trafficking in or furnishing counterfeit drugs

1. A person is guilty of trafficking in or furnishing counterfeit drugs if the person intentionally or knowingly trafficks in or furnishes a substance that the person represents to be a scheduled drug but that in fact is not a scheduled drug but is capable of causing death or serious bodily injury when taken or administered in the customary or intended manner.

[PL 1993, c. 674, §3 (AMD).]

2. Trafficking in or furnishing counterfeit drugs is a Class C crime.

[PL 1975, c. 499, §1 (NEW).]

3. If a person uses a motor vehicle to facilitate the trafficking or furnishing of a counterfeit drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed

5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license. The Secretary of State may not reinstate the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.
[PL 1993, c. 674, §4 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1993, c. 674, §§3,4 (AMD).

§1105. Aggravated trafficking, furnishing or cultivation of scheduled drugs

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §102 (AMD). PL 1987, c. 535, §3 (AMD). PL 1989, c. 305 (AMD). PL 1989, c. 333, §§1,2 (AMD). PL 1989, c. 383, §§1,2 (AMD). PL 1989, c. 538, §§1,2 (AMD). PL 1989, c. 600, §§A2-6 (AMD). PL 1989, c. 924, §§10,11 (AMD). PL 1993, c. 674, §5 (AMD). PL 1995, c. 65, §A58 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 635, §§3,4 (AMD). PL 1999, c. 342, §1 (AMD). PL 1999, c. 374, §4 (AMD). PL 1999, c. 417, §§1,2 (AMD). PL 1999, c. 422, §§4-6 (AMD). PL 1999, c. 453, §§8-10 (AMD). PL 1999, c. 531, §§I1-5 (AMD). PL 2001, c. 383, §118 (RP). PL 2001, c. 383, §156 (AFF). PL 2001, c. 419, §§14,15 (AMD). PL 2001, c. 667, §D21 (AMD). PL 2001, c. 667, §D36 (AFF).

§1105-A. Aggravated trafficking of scheduled drugs

1. A person is guilty of aggravated trafficking in a scheduled drug if the person violates section 1103 and:

A. The person trafficks in a scheduled drug with a child who is in fact less than 18 years of age and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime;

(2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;

(3) A schedule X drug. Violation of this subparagraph is a Class B crime;

(4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;

(5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(6) A schedule Z drug. Violation of this subparagraph is a Class C crime; [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime;

(2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;

(3) A schedule X drug. Violation of this subparagraph is a Class B crime;

(4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;

(5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [PL 2007, c. 476, §39 (AMD).]

C. [PL 2001, c. 667, Pt. D, §22 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

C-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime;

(2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;

(3) A schedule X drug. Violation of this subparagraph is a Class B crime;

(4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;

(5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(6) A schedule Z drug. Violation of this subparagraph is a Class C crime; [PL 2001, c. 667, Pt. D, §23 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

D. At the time of the offense, the person trafficks in cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class A crime; [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

E. At the time of the offense, the person is on a school bus or within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23 and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime;

(2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;

(3) A schedule X drug. Violation of this subparagraph is a Class B crime;

(4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;

(5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(6) A schedule Z drug. Violation of this subparagraph is a Class C crime.

For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5; [PL 2005, c. 415, §2 (AMD).]

F. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to traffick in a scheduled drug and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime;

(2) Marijuana in a quantity of 20 pounds or more. Violation of this subparagraph is a Class A crime;

(3) A schedule X drug. Violation of this subparagraph is a Class B crime;

(4) Marijuana in a quantity of more than one pound. Violation of this subparagraph is a Class B crime;

(5) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(6) A schedule Z drug. Violation of this subparagraph is a Class C crime; [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

G. At the time of the offense, the person trafficks in methamphetamine or amphetamine in a quantity of 300 or more pills, capsules, tablets or units or 100 grams or more. Violation of this paragraph is a Class A crime; [PL 2011, c. 436, §1 (AMD).]

H. At the time of the offense, the person trafficks in heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class A crime; [PL 2001, c. 667, Pt. D, §24 (AMD); PL 2001, c. 667, Pt. D, §36 (AFF).]

I. At the time of the offense, the person trafficks in 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class A crime; [PL 2003, c. 688, Pt. B, §3 (RPR).]

J. At the time of the offense, the person trafficks in a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class A crime; [PL 2003, c. 688, Pt. B, §3 (RPR).]

K. Death of another person is in fact caused by the use of one or more scheduled drugs, the scheduled drug trafficked by the defendant is a contributing factor to the death of the other person and that drug is a schedule W drug. A violation of this paragraph is a Class A crime; [PL 2017, c. 460, Pt. F, §2 (AMD).]

L. Serious bodily injury of another person is in fact caused by the use of one or more scheduled drugs, the scheduled drug trafficked by the defendant is a contributing factor to the serious bodily injury of the other person and that drug is a schedule W drug. A violation of this paragraph is a Class B crime; or [PL 2017, c. 460, Pt. F, §2 (AMD).]

M. At the time of the offense, the person trafficks in fentanyl powder in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing fentanyl powder. A violation of this paragraph is a Class A crime. [PL 2017, c. 460, Pt. F, §3 (NEW).]

[PL 2017, c. 460, Pt. F, §§2, 3 (AMD).]

2. If a person uses a motor vehicle to facilitate the aggravated trafficking in a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

3. It is an affirmative defense to prosecution under this section that the substance trafficked in is hemp.
[PL 2019, c. 12, Pt. B, §4 (AMD).]

SECTION HISTORY

PL 2001, c. 383, §119 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §§D22-25 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 1, §7 (AMD). PL 2003, c. 61, §3 (AMD). PL 2003, c. 476, §§1,2 (AMD). PL 2003, c. 688, §B3 (AMD). PL 2005, c. 415, §2 (AMD). PL 2007, c. 476, §39 (AMD). PL 2011, c. 436, §1 (AMD). PL 2017, c. 460, Pt. F, §§2, 3 (AMD). PL 2019, c. 12, Pt. B, §4 (AMD).

§1105-B. Aggravated trafficking or furnishing of counterfeit drugs

1. A person is guilty of aggravated trafficking in or furnishing a counterfeit drug if the person violates section 1104 and:

A. The person trafficks in a counterfeit drug with or furnishes a counterfeit drug to a child who is in fact under 18 years of age; [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [PL 2007, c. 476, §40 (AMD).]

C. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm; or [PL 2003, c. 476, §4 (AMD).]

D. Death or serious bodily injury of another person is in fact caused by the use of one or more drugs and the drug furnished by the defendant is a contributing factor to the death or serious bodily injury of the other person. [PL 2017, c. 460, Pt. F, §4 (AMD).]
[PL 2017, c. 460, Pt. F, §4 (AMD).]

2. Aggravated trafficking in or furnishing a counterfeit drug is a Class B crime.
[PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

3. If a person uses a motor vehicle to facilitate the aggravated trafficking in or furnishing of a counterfeit drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.
[PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 2001, c. 383, §119 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §D26 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 476, §§3-5 (AMD). PL 2007, c. 476, §40 (AMD). PL 2017, c. 460, Pt. F, §4 (AMD).

§1105-C. Aggravated furnishing of scheduled drugs

1. A person is guilty of aggravated furnishing of a scheduled drug if the person violates section 1106 and:

A. The person furnishes a scheduled drug to a child who is in fact less than 18 years of age and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class B crime;

(2) A schedule X drug. Violation of this subparagraph is a Class C crime;

(3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(4) A schedule Z drug. Violation of this subparagraph is a Class C crime; [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

B. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class B crime;

(2) A schedule X drug. Violation of this subparagraph is a Class C crime;

(3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(4) A schedule Z drug. Violation of this subparagraph is a Class C crime.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [PL 2007, c. 476, §41 (AMD).]

C. [PL 2001, c. 667, Pt. D, §27 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

C-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class B crime;

(2) A schedule X drug. Violation of this subparagraph is a Class C crime;

(3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(4) A schedule Z drug. Violation of this subparagraph is a Class C crime; [PL 2001, c. 667, Pt. D, §28 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

D. At the time of the offense, the person furnishes cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

E. At the time of the offense, the person is on a school bus or within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23 and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class B crime;

(2) A schedule X drug. Violation of this subparagraph is a Class C crime;

(3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(4) A schedule Z drug. Violation of this subparagraph is a Class C crime.

For purposes of this paragraph, "school bus" has the same meaning as defined in Title 29-A, section 2301, subsection 5; [PL 2005, c. 415, §3 (AMD).]

F. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to furnish a scheduled drug and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class B crime;

(2) A schedule X drug. Violation of this subparagraph is a Class C crime;

(3) A schedule Y drug. Violation of this subparagraph is a Class C crime; or

(4) A schedule Z drug. Violation of this subparagraph is a Class C crime; [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

G. At the time of the offense, the person furnishes methamphetamine in a quantity of 100 grams or more. Violation of this paragraph is a Class B crime; [PL 2001, c. 667, Pt. D, §31 (AMD); PL 2001, c. 667, Pt. D, §36 (AFF).]

H. At the time of the offense, the person furnishes heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class B crime; [PL 2001, c. 667, Pt. D, §31 (AMD); PL 2001, c. 667, Pt. D, §36 (AFF).]

I. At the time of the offense, the person furnishes 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class B crime; [PL 2003, c. 476, §6 (AMD).]

J. At the time of the offense, the person furnishes a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class B crime; [PL 2003, c. 476, §6 (AMD).]

K. Death of another person is in fact caused by the use of one or more drugs and the drug furnished by the defendant is a contributing factor to the death of the other person. A violation of this paragraph is a Class B crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the death was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the death was reasonably foreseeable, the jury shall consider:

(1) The factual circumstances surrounding the furnishing of the drug;

(2) The total quantity of the drug furnished;

(3) The dosage of the units furnished;

(4) The nature of the drug;

(5) The overdose risk presented by use of the drug; and

(6) Any safety warnings provided to the defendant at the time of dispensing the drug; or [PL 2017, c. 460, Pt. F, §5 (AMD).]

L. Serious bodily injury is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class C crime. It is an affirmative defense to prosecution under this paragraph that the drug furnished was lawfully possessed by the defendant prior to furnishing and that the serious bodily injury was not a reasonably foreseeable consequence of the use of that scheduled drug. In determining whether the serious bodily injury was reasonably foreseeable, the jury shall consider:

(1) The factual circumstances surrounding the furnishing of the drug;

(2) The total quantity of the drug furnished;

(3) The dosage of the units furnished;

(4) The nature of the drug;

(5) The overdose risk presented by use of the drug; and

(6) Any safety warnings provided to the defendant at the time of dispensing the drug. [PL 2003, c. 476, §7 (NEW).]

[PL 2017, c. 460, Pt. F, §5 (AMD).]

2. If a person uses a motor vehicle to facilitate the aggravated furnishing of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

3. It is an affirmative defense to prosecution under this section that the substance furnished is hemp.

[PL 2019, c. 12, Pt. B, §5 (AMD).]

SECTION HISTORY

PL 2001, c. 383, §119 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §§D27,28,31, 32 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 1, §8 (AMD). PL 2003, c. 61, §4 (AMD). PL 2003, c. 476, §§6,7 (AMD). PL 2005, c. 415, §3 (AMD). PL 2007, c. 476, §41 (AMD). PL 2017, c. 460, Pt. F, §5 (AMD). PL 2019, c. 12, Pt. B, §5 (AMD).

§1105-D. Aggravated cultivating of marijuana

1. A person is guilty of aggravated cultivating of marijuana if the person violates section 1117 and:

A. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [PL 2007, c. 476, §42 (AMD).]

B. [PL 2001, c. 667, Pt. D, §29 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

B-1. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime; [PL 2001, c. 667, Pt. D, §30 (NEW); PL 2001, c. 667, Pt. D, §36 (AFF).]

C. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to cultivate marijuana and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime; or [PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

D. At the time of the offense, the person is within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23 and the person grows or cultivates:

(1) Five hundred or more marijuana plants. Violation of this subparagraph is a Class A crime;

(2) One hundred or more but fewer than 500 marijuana plants. Violation of this subparagraph is a Class B crime;

(3) More than 5 but fewer than 100 marijuana plants. Violation of this subparagraph is a Class C crime; or

(4) Five or fewer marijuana plants. Violation of this subparagraph is a Class D crime. [PL 2005, c. 415, §4 (AMD).]

[PL 2007, c. 476, §42 (AMD).]

2. If a person uses a motor vehicle to facilitate the aggravated cultivating of marijuana, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[PL 2001, c. 383, §119 (NEW); PL 2001, c. 383, §156 (AFF).]

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is hemp.

[PL 2019, c. 12, Pt. B, §6 (AMD).]

SECTION HISTORY

PL 2001, c. 383, §119 (NEW). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §§D29,30 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 61, §5 (AMD). PL 2005, c. 415, §4 (AMD). PL 2007, c. 476, §42 (AMD). PL 2019, c. 12, Pt. B, §6 (AMD).

§1105-E. Aggravated unlawful operation of a methamphetamine laboratory

1. A person is guilty of aggravated unlawful operation of a methamphetamine laboratory if the person violates section 1124 and:

A. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction. Violation of this paragraph is a Class A crime.

Section 9-A governs the use of prior convictions when determining a sentence under this paragraph, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [PL 2015, c. 346, §5 (NEW).]

B. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm. Violation of this paragraph is a Class A crime; [PL 2015, c. 346, §5 (NEW).]

C. At the time of the offense, the person is within 1,000 feet of the real property comprising a private or public elementary or secondary school or a safe zone as defined in section 1101, subsection 23. Violation of this paragraph is a Class A crime; [PL 2015, c. 346, §5 (NEW).]

D. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to operate a methamphetamine laboratory. Violation of this paragraph is a Class A crime; [PL 2015, c. 346, §5 (NEW).]

E. Death or serious bodily injury is in fact caused by the methamphetamine laboratory. Violation of this paragraph is a Class A crime; or [PL 2015, c. 346, §5 (NEW).]

F. At the time of the offense, the premises is the residence of a child who is in fact less than 18 years of age, the premises is a multi-unit residential building or the premises is a room offered to the public for overnight accommodations. Violation of this paragraph is a Class A crime. [PL 2015, c. 346, §5 (NEW).]

[PL 2015, c. 346, §5 (NEW).]

SECTION HISTORY

PL 2015, c. 346, §5 (NEW).

§1106. Unlawfully furnishing scheduled drugs

1.

[PL 2001, c. 383, §120 (RP); PL 2001, c. 383, §156 (AFF).]

1-A. Except as provided in subsection 1-B, a person is guilty of unlawful furnishing of a scheduled drug if the person intentionally or knowingly furnishes what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §121 (NEW); PL 2001, c. 383, §156 (AFF).]

B. A schedule X drug. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §121 (NEW); PL 2001, c. 383, §156 (AFF).]

C. A schedule Y drug. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §121 (NEW); PL 2001, c. 383, §156 (AFF).]

D. A schedule Z drug. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §121 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §121 (NEW); PL 2001, c. 383, §156 (AFF).]

1-B. A person is not guilty of unlawful furnishing of a scheduled drug if the conduct that constitutes the furnishing is expressly:

A. Authorized by Title 22, Title 28-B or Title 32; or [PL 2017, c. 409, Pt. B, §4 (AMD).]

B. Made a civil violation by Title 22 or Title 28-B. [PL 2017, c. 409, Pt. B, §4 (AMD).]
[PL 2017, c. 409, Pt. B, §4 (AMD).]

2.

[PL 2001, c. 383, §122 (RP); PL 2001, c. 383, §156 (AFF).]

3. Proof that the person intentionally or knowingly possesses a scheduled drug that is in fact of a quantity, state or concentration as provided in this subsection, gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is unlawfully furnishing that scheduled drug:

A. More than 2 1/2 ounces of marijuana; [PL 2009, c. 67, §1 (AMD).]

B. More than 2 grams of cocaine or 2 grams or more of cocaine in the form of cocaine base; [PL 2015, c. 496, §3 (AMD).]

C. [PL 1999, c. 531, Pt. I, §7 (RP).]

D. Lysergic acid diethylamide in any of the following quantities or concentrations:

(1) Not less than 25 squares, stamps, tablets or units of any compound, mixture or substance containing a detectable quantity of lysergic acid diethylamide; or

(2) Any quantity of any compound, mixture or substance that, in the aggregate, contains not less than 1,250 micrograms of lysergic acid diethylamide; [PL 2001, c. 419, §16 (AMD).]

E. More than 200 milligrams of methamphetamine; [PL 2015, c. 496, §4 (AMD).]

F. Any quantity of pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin that, in the aggregate, contains more than 200 milligrams of the narcotic drug; [PL 2015, c. 496, §5 (AMD).]

G. Any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains more than 200 milligrams of oxycodone or more than 200 milligrams of hydromorphone; or [PL 2015, c. 496, §5 (AMD).]

H. Fifteen or more pills, capsules, tablets or units containing 3, 4 - methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. [PL 2001, c. 419, §16 (NEW).]
[PL 2015, c. 496, §§3-5 (AMD).]

4.

[PL 1989, c. 334, §4 (RP).]

5. If a person uses a motor vehicle to facilitate the unlawful furnishing of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license. The Secretary of State may not reinstate the person's driver's license, permit, privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.
[PL 1993, c. 674, §6 (NEW).]

6. It is an affirmative defense to prosecution under this section that the substance furnished is:

A. Hemp; or [PL 2019, c. 12, Pt. B, §7 (AMD).]

B. A residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an employee of such a program. [PL 2007, c. 346, Pt. B, §1 (NEW).]

[PL 2019, c. 12, Pt. B, §7 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1987, c. 164, §§3,4 (AMD). PL 1987, c. 535, §§4,5 (AMD). PL 1989, c. 253 (AMD). PL 1989, c. 334, §4 (AMD). PL 1989, c. 344, §2 (AMD). PL 1989, c. 384, §3 (AMD). PL 1989, c. 600, §§A7,8 (AMD). PL 1989, c. 924, §12 (AMD). PL 1991, c. 548, §A11 (AMD). PL 1993, c. 674, §6 (AMD). PL 1995, c. 635, §5 (AMD). PL 1999, c. 422, §§7-9 (AMD). PL 1999, c. 453, §§11,12 (AMD). PL 1999, c. 531, §§I6,7 (AMD). PL 2001, c. 383, §§120-123 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 419, §§16-18 (AMD). PL 2003, c. 61, §6 (AMD). PL 2007, c. 346, Pt. B, §1 (AMD). PL 2009, c. 67, §1 (AMD). PL 2015, c. 496, §§3-5 (AMD). PL 2017, c. 409, Pt. B, §4 (AMD). PL 2019, c. 12, Pt. B, §7 (AMD).

§1106-A. Aggregation of amounts of drugs seized

1. Quantities of scheduled drugs involved in violations of section 1103, 1105-A, 1105-B, 1105-C or 1106 committed pursuant to one scheme or course of conduct and confiscated within a 6-month period may be aggregated to charge a single violation of appropriate class. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregate count be considered as separate violations. An aggregate count of violations may not be deemed duplicative because of such an order and no election may be required. Prosecution may be brought in any venue in which one of the violations aggregated was committed.

[PL 2001, c. 383, §124 (AMD); PL 2001, c. 383, §156 (AFF).]

2. Quantities of scheduled drugs involved in violation of section 1107-A committed pursuant to one scheme or course of conduct and confiscated within a 48-hour period may be aggregated to charge a single violation of appropriate class. Subject to the requirement that the conduct of the defense may not be prejudiced by lack of fair notice or by surprise, the court may at any time order that a single aggregate count be considered as separate violations. An aggregate count of violations may not be deemed duplicative because of such an order and no election may be required. Prosecution may be brought in any venue in which one of the violations aggregated was committed.

[PL 2001, c. 383, §125 (AMD); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1999, c. 442, §2 (NEW). PL 2001, c. 383, §§124,125 (AMD). PL 2001, c. 383, §156 (AFF).

§1107. Unlawful possession of scheduled drugs

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 649, §6 (AMD). PL 1981, c. 317, §24 (AMD). PL 1989, c. 384, §4 (AMD). PL 1989, c. 538, §§3,4 (AMD). PL 1995, c. 635, §6 (AMD). PL 1999, c. 422, §10 (AMD). PL 2001, c. 383, §126 (RP). PL 2001, c. 383, §156 (AFF).

§1107-A. Unlawful possession of scheduled drugs

1. Except as provided in subsection 2, a person is guilty of unlawful possession of a scheduled drug if the person intentionally or knowingly possesses what that person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug and at the time of the offense the person had one or more convictions for violating this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction and the drug is:

(1) Cocaine and the quantity possessed is more than 14 grams;

(2) Cocaine in the form of cocaine base and the quantity possessed is more than 4 grams; or

(3) Methamphetamine and the quantity possessed is more than 14 grams.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of a prior conviction may precede the commission of the offense by more than 10 years.

Violation of this paragraph is a Class B crime; [PL 2015, c. 308, §1 (AMD).]

B. Except as provided in paragraph B-1, a schedule W drug and the drug contains:

(1) Heroin (diacetylmorphine) and the amount possessed is more than 200 milligrams;

(2) Cocaine and the amount possessed is more than 2 grams;

(3) Cocaine in the form of cocaine base and the amount possessed is more than 2 grams;

(4) Oxycodone and the amount possessed is more than 200 milligrams;

(5) Hydrocodone and the amount possessed is more than 200 milligrams;

(6) Hydromorphone and the amount possessed is more than 200 milligrams;

(7) Methamphetamine and the amount possessed is more than 200 milligrams; or

(8) Fentanyl powder and the amount possessed is more than 200 milligrams.

Violation of this paragraph is a Class C crime; [PL 2015, c. 496, §6 (RPR).]

B-1. A schedule W drug and that drug contains any of the following and at the time of the offense the person had one or more convictions for violating section 1103, 1105-A, 1105-C, 1105-E, 1106 or section 1124 or for engaging in substantially similar conduct in another jurisdiction:

(1) Heroin (diacetylmorphine);

(2) Cocaine;

(3) Cocaine in the form of cocaine base;

(4) Oxycodone;

(5) Hydrocodone;

(6) Hydromorphone;

(7) Methamphetamine; or

(8) Fentanyl powder.

Violation of this paragraph is a Class C crime; [PL 2015, c. 496, §7 (NEW).]

C. A schedule W drug, except as provided in paragraphs A, B and B-1. Violation of this paragraph is a Class D crime; [PL 2015, c. 496, §8 (AMD).]

D. A schedule X drug. Violation of this paragraph is a Class D crime; [PL 2001, c. 383, §127 (NEW); PL 2001, c. 383, §156 (AFF).]

E. A schedule Y drug. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §127 (NEW); PL 2001, c. 383, §156 (AFF).]

F. A schedule Z drug. Violation of this paragraph is a Class E crime unless the drug is marijuana, in which case a violation of this paragraph is:

(1) For possession of over 2 1/2 ounces to 8 ounces of marijuana, a Class E crime;

(2) For possession of over 8 ounces to 16 ounces of marijuana, a Class D crime;

(3) For possession of over one pound to 20 pounds of marijuana, a Class C crime; and

(4) For possession of over 20 pounds of marijuana, a Class B crime. [PL 2009, c. 67, §2 (AMD).]

[PL 2015, c. 496, §§6-8 (AMD).]

2. A person is not guilty of unlawful possession of a scheduled drug if the conduct that constitutes the possession is expressly:

A. Authorized by Title 22, Title 28-B or Title 32; or [PL 2017, c. 409, Pt. B, §5 (AMD).]

B. Made a civil violation by Title 22 or Title 28-B. [PL 2017, c. 409, Pt. B, §5 (AMD).]

[PL 2017, c. 409, Pt. B, §5 (AMD).]

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

A. The substance possessed is hemp; or [PL 2019, c. 12, Pt. B, §8 (AMD).]

B. The substance possessed is a methamphetamine precursor drug and was possessed by the defendant for a legitimate medical purpose. [PL 2005, c. 430, §4 (NEW); PL 2005, c. 430, §10 (AFF).]

[PL 2019, c. 12, Pt. B, §8 (AMD).]

4. It is an affirmative defense to prosecution under subsection 1, paragraph B, subparagraphs (4) to (6); subsection 1, paragraph B-1, subparagraphs (4) to (6); and paragraphs C to F that the person possessed a valid prescription for the scheduled drug or controlled substance that is the basis for the charge and that, at all times, the person intended the drug to be used only for legitimate medical use in conformity with the instructions provided by the prescriber and dispenser.

[PL 2015, c. 496, §9 (AMD).]

5. It is an affirmative defense to prosecution under this section that the substance furnished is:

A. Hemp; or [PL 2019, c. 12, Pt. B, §9 (AMD).]

B. A residual amount of any scheduled drug that is contained in one or more hypodermic apparatuses if the person is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is transporting the hypodermic apparatuses to the program. [PL 2007, c. 346, Pt. B, §2 (NEW).]

[PL 2019, c. 12, Pt. B, §9 (AMD).]

SECTION HISTORY

PL 2001, c. 383, §127 (NEW). PL 2001, c. 383, §156 (AFF). PL 2003, c. 61, §7 (AMD). PL 2005, c. 252, §1 (AMD). PL 2005, c. 430, §4 (AMD). PL 2005, c. 430, §10 (AFF). PL 2005, c. 442, §1 (AMD). PL 2007, c. 55, §2 (AMD). PL 2007, c. 346, Pt. B, §2 (AMD). PL 2007, c. 476, §43 (AMD). PL 2009, c. 67, §2 (AMD). PL 2011, c. 464, §19 (AMD). PL 2015, c. 308, §§1, 2 (AMD). PL 2015, c. 346, §6 (AMD). PL 2015, c. 496, §§6-9 (AMD). PL 2017, c. 409, Pt. B, §5 (AMD). PL 2019, c. 12, Pt. B, §§8, 9 (AMD).

§1108. Acquiring drugs by deception

1. A person is guilty of acquiring drugs by deception if, as a result of deception, the person obtains or exercises control over a prescription for a scheduled drug or what the person knows or believes to be a scheduled drug, which is in fact a scheduled drug, and the drug is:

A. A schedule W drug. Violation of this paragraph is a Class C crime; [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

B. A schedule X drug. Violation of this paragraph is a Class C crime; [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

C. A schedule Y drug. Violation of this paragraph is a Class C crime; or [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

D. A schedule Z drug. Violation of this paragraph is a Class D crime. [PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

[PL 2001, c. 667, Pt. A, §35 (RPR); PL 2001, c. 667, Pt. A, §36 (AFF).]

2. As used in this section, "deception" has the same meaning as in section 354, subsection 2 and includes:

A. Failure by a person, after having been asked by a prescribing health care provider or a person acting under the direction or supervision of a prescribing health care provider, to disclose the particulars of every narcotic drug or prescription for a narcotic drug issued to that person by a different health care provider within the preceding 30 days; or [PL 2001, c. 419, §19 (NEW).]

B. Furnishing a false name or address to a prescribing health care provider or a person acting under the direction or supervision of a prescribing health care provider. [PL 2001, c. 419, §19 (NEW).]

[PL 2001, c. 419, §19 (AMD).]

3. For purposes of this section, information communicated to a prescribing health care provider, or a person acting under the direction or supervision of a prescribing health care provider, in an effort to violate this section, including a violation by procuring the administration of a scheduled drug by deception, may not be deemed a privileged communication.

[PL 2007, c. 382, §1 (AMD).]

4.

[PL 2001, c. 383, §129 (RP); PL 2001, c. 383, §156 (AFF).]

5. For purposes of the causation required by subsection 1, engaging in an act of deception described in subsection 2, paragraph A or B gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303, that the act of deception in fact resulted in the acquisition of any drugs prescribed to that person by that prescribing health care provider or person acting under the direction or supervision of that prescribing health care provider.

[PL 2003, c. 143, §6 (AMD).]

6. A prescribing health care provider, or a person acting under the direction or supervision of a prescribing health care provider, who knows or has reasonable cause to believe that a person is committing or has committed deception may report that fact to a law enforcement officer. A person participating in good faith in reporting under this subsection, or in participating in a related proceeding, is immune from criminal or civil liability for the act of reporting or participating in the proceeding.

[PL 2007, c. 382, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §33 (RPR). PL 1983, c. 350 (AMD). PL 2001, c. 383, §§128,129 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 419, §§19,20 (AMD). PL 2001, c. 667, §A35 (AMD). PL 2001, c. 667, §A36 (AFF). PL 2003, c. 143, §6 (AMD). PL 2007, c. 382, §§1, 2 (AMD).

§1109. Stealing drugs

1. A person is guilty of stealing drugs if the person violates chapter 15, section 353, 355 or 356-A knowing or believing that the subject of the theft is a scheduled drug, and it is in fact a scheduled drug, and the theft is from a person authorized to possess or traffick in that scheduled drug.
[PL 2003, c. 1, §9 (AMD).]

2. Stealing drugs is:

A. A Class C crime if the drug is a schedule W, X or Y drug; or [PL 2001, c. 419, §21 (NEW).]

B. A Class D crime if the drug is a schedule Z drug. [PL 2001, c. 419, §21 (NEW).]
[PL 2001, c. 419, §21 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2001, c. 383, §130 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 419, §21 (AMD). PL 2001, c. 667, §D33 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 1, §9 (AMD).

§1110. Trafficking in or furnishing hypodermic apparatuses

1. Except as provided in subsection 1-B, paragraph A, a person is guilty of trafficking in hypodermic apparatuses if the person intentionally or knowingly trafficks in one or more hypodermic apparatuses. Violation of this subsection is a Class C crime.

A. [PL 2001, c. 383, §131 (RP); PL 2001, c. 383, §156 (AFF).]

B. [PL 1997, c. 340, §1 (RP).]
[PL 2001, c. 383, §131 (AMD); PL 2001, c. 383, §156 (AFF).]

1-A. Except as provided in subsection 1-B, paragraph B, a person is guilty of furnishing hypodermic apparatuses if the person intentionally or knowingly furnishes 11 or more hypodermic apparatuses. Violation of this subsection is a Class D crime.
[PL 2001, c. 383, §132 (AMD); PL 2001, c. 383, §156 (AFF).]

1-B. The following exceptions apply.

A. A person is not guilty of trafficking in hypodermic apparatuses if the conduct that constitutes the trafficking is expressly authorized by Title 32, section 13787-A. [PL 2001, c. 383, §133 (NEW); PL 2001, c. 383, §156 (AFF).]

B. A person is not guilty of furnishing hypodermic apparatuses if the conduct that constitutes the furnishing is expressly authorized by Title 22, section 2383-B. [PL 2001, c. 383, §133 (NEW); PL 2001, c. 383, §156 (AFF).]
[PL 2001, c. 383, §133 (NEW); PL 2001, c. 383, §156 (AFF).]

1-C. It is an affirmative defense to prosecution under subsection 1-A that the person furnishing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an employee of such a program.
[PL 2007, c. 695, Pt. A, §20 (AMD).]

2.

[PL 2001, c. 383, §134 (RP); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1987, c. 535, §6 (RPR). PL 1989, c. 384, §5 (AMD). PL 1997, c. 340, §1 (AMD). PL 2001, c. 383, §§131-134 (AMD). PL 2001, c. 383, §156 (AFF). PL 2007, c. 346, Pt. B, §3 (AMD). PL 2007, c. 695, Pt. A, §20 (AMD).

§1111. Illegal possession of hypodermic apparatuses

1. A person is guilty of illegal possession of hypodermic apparatuses if the person intentionally or knowingly possesses 11 or more hypodermic apparatuses, unless the conduct that constitutes such possession is:

A. Expressly authorized by Title 22, section 2383-B or Title 32, section 13787-A. [PL 1997, c. 340, §2 (AMD).]

B. [PL 1997, c. 340, §2 (RP).]

[PL 1997, c. 340, §2 (AMD).]

2. Illegal possession of hypodermic apparatuses is a Class D crime.

[PL 1997, c. 340, §2 (AMD).]

3. It is an affirmative defense to prosecution under this section that the person possessing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is transporting the hypodermic apparatuses to the program.

[PL 2007, c. 346, Pt. B, §4 (NEW).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §103 (AMD). PL 1989, c. 384, §6 (AMD). PL 1997, c. 340, §2 (AMD). PL 2007, c. 346, Pt. B, §4 (AMD).

§1111-A. Use of drug paraphernalia

1. As used in this section the term "drug paraphernalia" means all equipment, products and materials of any kind that are used or intended for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, except that this section does not apply to a person who is authorized to possess marijuana for medical use pursuant to Title 22, chapter 558-C, to the extent the drug paraphernalia is used for that person's medical use of marijuana; to a person who is authorized to possess marijuana pursuant to Title 28-B, to the extent the drug paraphernalia is used for that person's adult use of marijuana; or to a marijuana store licensed pursuant to Title 28-B, to the extent that the drug paraphernalia relates to the sale or offering for sale of marijuana by the marijuana store. It includes, but is not limited to:

A. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a scheduled drug or from which a scheduled drug can be derived; [PL 1981, c. 531, §2 (AMD).]

B. Kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

C. Isomerization devices used or intended for use in increasing the potency of any species of plant that is a scheduled drug; [PL 2001, c. 383, §135 (AMD); PL 2001, c. 383, §156 (AFF).]

D. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

E. Scales and balances used or intended for use in weighing or measuring scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

F. Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used or intended for use in cutting scheduled drugs; [RR 2015, c. 1, §11 (COR).]

G. Separation gins and sifters, used or intended for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana; [PL 1981, c. 531, §2 (AMD).]

H. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

I. Capsules, balloons, envelopes and other containers used or intended for use in packaging small quantities of scheduled drugs; [PL 1981, c. 531, §2 (AMD).]

J. Containers and other objects used or intended for use in storing or concealing scheduled drugs; and [PL 1981, c. 531, §2 (AMD).]

K. Objects used or intended for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

(2) Water pipes;

(3) Carburetion tubes and devices;

(4) Smoking and carburetion masks;

(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand;

(6) Miniature cocaine spoons and cocaine vials;

(7) Chamber pipes;

(8) Carburetor pipes;

(9) Electric pipes;

(10) Air-driven pipes;

(11) Chillums;

(12) Bongs; or

(13) Ice pipes or chillers. [PL 1981, c. 531, §3 (AMD).]

[PL 2017, c. 409, Pt. B, §6 (AMD).]

2. For purposes of this section, drug paraphernalia does not include hypodermic apparatus. Possession of, furnishing or trafficking in hypodermic apparatus constitute separate offenses under sections 1110 and 1111.

[PL 1981, c. 266 (NEW).]

3. In determining whether an object is drug paraphernalia, a court or other authority shall consider, in addition to all other logically relevant factors, the following:

A. Statements by an owner or by anyone in control of the object concerning its use; [PL 1981, c. 266 (NEW).]

B. One or more prior convictions, if any, of an owner, or of anyone in control of the object, for any offense under this chapter or for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction; [PL 2007, c. 476, §44 (AMD).]

C. The proximity of the object, in time and space, to a direct violation of this chapter; [PL 1981, c. 266 (NEW).]

D. The proximity of the object to scheduled drugs; [PL 1981, c. 266 (NEW).]

E. The existence of any residue of scheduled drugs on the object; [PL 1981, c. 266 (NEW).]

F. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom the owner knows, or should reasonably know, intend to use the object to facilitate a violation of this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this chapter may not prevent a finding that the object is intended for use as drug paraphernalia; [PL 2001, c. 383, §136 (AMD); PL 2001, c. 383, §156 (AFF).]

G. Instructions, oral or written, provided with the object concerning its use; [PL 1981, c. 266 (NEW).]

H. Descriptive materials accompanying the object which explain or depict its use; [PL 1981, c. 266 (NEW).]

I. National and local advertising concerning its use; [PL 1981, c. 266 (NEW).]

J. The manner in which the object is displayed for sale; [PL 1981, c. 266 (NEW).]

K. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products; [PL 1981, c. 266 (NEW).]

L. Direct or circumstantial evidence of the ratio of sales of the object to the total sales of the business enterprise; [PL 1981, c. 266 (NEW).]

M. The existence and scope of legitimate uses for the object in the community; and [PL 1981, c. 266 (NEW).]

N. Expert testimony concerning its use. [PL 1981, c. 266 (NEW).]

[PL 2007, c. 476, §44 (AMD).]

4.

[PL 2011, c. 464, §20 (RP).]

4-A. Except as provided in Title 22, chapter 558-C or in Title 28-B, a person is guilty of use of drug paraphernalia if:

A. The person trafficks in or furnishes drug paraphernalia knowing, or under circumstances when that person reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383, and the person to whom that person is trafficking or furnishing drug paraphernalia is:

(1) At least 16 years of age. Violation of this subparagraph is a Class E crime; or

(2) Less than 16 years of age. Violation of this subparagraph is a Class D crime; or [PL 2011, c. 464, §20 (NEW).]

B. The person places in a newspaper, magazine, handbill or other publication an advertisement knowing, or under circumstances when that person reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects intended for use as drug paraphernalia. Violation of this paragraph is a Class E crime. [PL 2011, c. 464, §20 (NEW).]

[PL 2017, c. 409, Pt. B, §7 (AMD).]

4-B. Except as provided in Title 22, chapter 558-C or in Title 28-B, a person commits a civil violation if:

A. The person in fact uses drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383. Violation of this paragraph is a civil violation

for which a fine of $300 must be adjudged, none of which may be suspended; or [PL 2011, c. 464, §20 (NEW).]

B. The person possesses with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a scheduled drug in violation of this chapter or Title 22, section 2383. Violation of this paragraph is a civil violation for which a fine of $300 must be adjudged, none of which may be suspended. [PL 2011, c. 464, §20 (NEW).]

[PL 2017, c. 409, Pt. B, §7 (AMD).]

5.

[PL 2001, c. 383, §138 (RP); PL 2001, c. 383, §156 (AFF).]

6.

[PL 2001, c. 383, §139 (RP); PL 2001, c. 383, §156 (AFF).]

7.

[PL 2001, c. 383, §140 (RP); PL 2001, c. 383, §156 (AFF).]

8.

[PL 2001, c. 383, §140 (RP); PL 2001, c. 383, §156 (AFF).]

9. Drug paraphernalia possessed in violation of this section is declared to be contraband and may be seized and confiscated by the State.

[PL 2001, c. 383, §141 (AMD); PL 2001, c. 383, §156 (AFF).]

10. It is an affirmative defense to prosecution under this section that the drug paraphernalia used or possessed is used or possessed for the propagation, cultivation or processing of hemp.

[PL 2019, c. 12, Pt. B, §10 (AMD).]

SECTION HISTORY

PL 1981, c. 266 (NEW). PL 1981, c. 531, §§1-5 (AMD). IB 1999, c. 1, §§4,5 (AMD). PL 2001, c. 383, §§135-141 (AMD). PL 2001, c. 383, §156 (AFF). PL 2003, c. 61, §8 (AMD). PL 2005, c. 386, §DD1 (AMD). PL 2005, c. 527, §§10,11 (AMD). PL 2007, c. 476, §44 (AMD). IB 2009, c. 1, §2 (AMD). RR 2009, c. 2, §39 (COR). PL 2011, c. 464, §20 (AMD). RR 2015, c. 1, §11 (COR). PL 2017, c. 409, Pt. B, §§6, 7 (AMD). PL 2019, c. 12, Pt. B, §10 (AMD).

§1111-B. Exemption from criminal liability for reporting a drug-related medical emergency or administering naloxone

A person who in good faith seeks medical assistance for or administers naloxone hydrochloride to another person experiencing a drug-related overdose or who is experiencing a drug-related overdose and is in need of medical assistance may not be arrested or prosecuted for a violation of section 1107-A, 1108, 1111 or 1111-A or a violation of probation as authorized by chapter 49 if the grounds for arrest or prosecution are obtained as a result of the person's seeking medical assistance, administering naloxone hydrochloride or experiencing a drug-related overdose. [PL 2019, c. 292, §1 (AMD).]

SECTION HISTORY

PL 2019, c. 137, §1 (NEW). PL 2019, c. 292, §1 (AMD).

§1112. Analysis of scheduled drugs

1. A laboratory that receives a drug or substance from a law enforcement officer or agency for analysis as a scheduled drug shall, if it is capable of so doing, analyze the same as requested by a method designed to accurately determine the composition of the substance, including by chemical means, visual examination, or both, and shall issue a certificate stating the results of the analysis. The certificate, when duly signed and sworn to by a person certified as qualified for this purpose by the

Department of Health and Human Services under certification standards set by that department, is admissible in evidence in a court of the State, and gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the composition, quality and quantity of the drug or substance are as stated in the certificate, unless, within 10 days written notice to the prosecution, the defendant requests that a qualified witness testify as to the composition, quality and quantity.
[PL 2001, c. 667, Pt. D, §34 (RPR); PL 2001, c. 667, Pt. D, §36 (AFF); PL 2003, c. 689, Pt. B, §6 (REV).]

2. Transfers of drugs and substances to and from a laboratory for purposes of analysis under this chapter may be by certified or registered mail, and when so made shall be deemed to comply with all the requirements regarding the continuity of custody of physical evidence.
[PL 1975, c. 740, §105 (AMD).]

3.

[PL 1975, c. 740, §106 (RP).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§104-106 (AMD). PL 1979, c. 512, §34 (AMD). PL 2001, c. 383, §142 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 419, §22 (AMD). PL 2001, c. 667, §D34 (AMD). PL 2001, c. 667, §D36 (AFF). PL 2003, c. 689, §B6 (REV).

§1113. Inspection of records

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 671, §26 (RPR). PL 1991, c. 274, §1 (RP).

§1114. Schedule Z drugs; contraband subject to seizure

All scheduled Z drugs, the unauthorized possession of which constitutes a civil violation under Title 22 or Title 28-B, are contraband, and may be seized and confiscated by the State. [PL 2017, c. 409, Pt. B, §8 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2017, c. 409, Pt. B, §8 (AMD).

§1115. Notice of conviction

On the conviction of any person of a violation of any provision of this chapter, or on a person's being found liable for a civil violation under Title 22 or Title 28-B, a copy of the judgment or sentence and of the opinion of the court or judge, if any opinion is filed, must be sent by the clerk of court or by the judge to the board or officer, if any, by whom the person has been licensed or registered to practice that person's profession or to carry on that person's business if the court finds that such conviction or liability renders that person unfit to engage in that person's profession or business. The court, in its discretion, may suspend or revoke the license or registration of the person to practice that person's profession or to carry on that person's business if the court finds that such conviction or liability renders that person unfit to engage in that person's profession or business. On the application of any person whose license or registration has been suspended or revoked and upon proper showing and for good cause, a board or officer may reinstate that person's license or registration. [PL 2017, c. 409, Pt. B, §9 (AMD).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§106-A (AMD). PL 2017, c. 409, Pt. B, §9 (AMD).

§1116. Trafficking or furnishing imitation scheduled drugs

1. Except as provided in subsection 1-A, a person is guilty of trafficking in or furnishing an imitation scheduled drug if the person intentionally or knowingly trafficks in or furnishes an imitation scheduled drug to a person who is:

A. At least 18 years of age. Violation of this paragraph is a Class E crime; or [PL 2001, c. 383, §143 (NEW); PL 2001, c. 383, §156 (AFF).]

B. Less than 18 years of age and the person trafficking or furnishing the imitation scheduled drug is at least 18 years of age. Violation of this paragraph is a Class D crime. [PL 2001, c. 383, §143 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2001, c. 383, §143 (AMD); PL 2001, c. 383, §156 (AFF).]

1-A. A person is not guilty of trafficking in or furnishing an imitation scheduled drug if the conduct that constitutes the trafficking or furnishing is expressly made a civil violation by Title 22, section 2383-A.

[PL 2001, c. 383, §144 (NEW); PL 2001, c. 383, §156 (AFF).]

2. Proof that the person intentionally or knowingly possesses 100 or more tablets, capsules or other dosage units of an imitation scheduled drug gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that the person is trafficking in or furnishing imitation scheduled drugs.

[PL 2001, c. 383, §145 (AMD); PL 2001, c. 383, §156 (AFF).]

3.

[PL 2001, c. 383, §146 (RP); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2001, c. 383, §146 (RP); PL 2001, c. 383, §156 (AFF).]

5. In determining whether the appearance of a dosage unit of an imitation scheduled drug would lead a reasonable person to believe the substance was a scheduled drug, as required by section 1101, subsection 19, the court shall consider, but is not limited to considering, the following:

A. In the case of a substance in tablet, capsule or other solid form, whether the size, shape and color are substantially similar to that of a specific scheduled drug, and in the case of a substance in powdered or liquid form, whether the color, consistency and appearance are substantially similar to that of a specific scheduled drug; [PL 1981, c. 603, §2 (NEW).]

B. Whether the markings on each dosage unit are substantially similar to those on a specific scheduled drug; and [PL 1981, c. 603, §2 (NEW).]

C. Whether the packaging of, or the labeling of a container containing the substance, bears markings or printed material substantially similar to that accompanying or containing a specific scheduled drug. [PL 1981, c. 603, §2 (NEW).]

[PL 1981, c. 603, §2 (NEW).]

6. This section does not apply to:

A. Law enforcement officers acting in the course and legitimate scope of their employment; [PL 1981, c. 603, §2 (NEW).]

B. Persons who manufacture, process, package, distribute or sell imitation scheduled drugs solely for or to licensed medical practitioners for use as placebos in the course of professional practice or research; and [PL 1981, c. 603, §2 (NEW).]

C. Licensed medical practitioners, pharmacists and other persons authorized to dispense or administer scheduled drugs who are acting in the legitimate performance of their professional licenses. [PL 1981, c. 603, §2 (NEW).]

[PL 2001, c. 383, §147 (AMD); PL 2001, c. 383, §156 (AFF).]

SECTION HISTORY

PL 1981, c. 603, §2 (NEW). PL 2001, c. 383, §§143-147 (AMD). PL 2001, c. 383, §156 (AFF).

§1117. Cultivating marijuana

1. Except as provided in subsection 4, a person is guilty of cultivating marijuana if:

A. The person intentionally or knowingly grows or cultivates marijuana. Violation of this paragraph is a Class E crime; or [PL 2009, c. 631, §2 (AMD); PL 2009, c. 631, §51 (AFF).]

B. The person violates paragraph A and the number of marijuana plants is:

(1) Five hundred or more. Violation of this subparagraph is a Class B crime;

(2) One hundred or more but fewer than 500. Violation of this subparagraph is a Class C crime;

(3) More than 5 but fewer than 100. Violation of this subparagraph is a Class D crime; or

(4) Five or fewer. Violation of this subparagraph is a Class E crime. [PL 2001, c. 383, §148 (NEW); PL 2001, c. 383, §156 (AFF).]

[PL 2009, c. 631, §2 (AMD); PL 2009, c. 631, §51 (AFF).]

2.

[PL 2001, c. 383, §148 (RP); PL 2001, c. 383, §156 (AFF).]

3. It is an affirmative defense to prosecution under this section that the substance cultivated or grown is hemp.

[PL 2019, c. 12, Pt. B, §11 (AMD).]

4. A person is not guilty of cultivating marijuana if the conduct is expressly authorized by Title 22, chapter 558-C or Title 28-B.

[PL 2017, c. 409, Pt. B, §10 (AMD).]

SECTION HISTORY

PL 1999, c. 374, §5 (NEW). PL 2001, c. 383, §148 (RPR). PL 2001, c. 383, §156 (AFF). PL 2003, c. 61, §9 (AMD). PL 2009, c. 631, §§2, 3 (AMD). PL 2009, c. 631, §51 (AFF). PL 2017, c. 409, Pt. B, §10 (AMD). PL 2019, c. 12, Pt. B, §11 (AMD).

§1118. Illegal importation of scheduled drugs

1. A person is guilty of illegal importation of scheduled drugs if the person intentionally or knowingly brings, carries or transports a scheduled drug other than marijuana into the State from another state or country, unless the person is authorized to import or to possess the scheduled drug under Title 22 or Title 32 or under any law of the United States, of another state or of a foreign country.

[PL 2001, c. 428, §1 (NEW).]

2. A violation of this section is:

A. A Class B crime if the drug is a schedule W drug; and [PL 2015, c. 485, §2 (AMD).]

B. A Class C crime if the drug is a schedule X, Y or Z drug. [PL 2015, c. 485, §2 (AMD).]

[PL 2015, c. 485, §2 (AMD).]

SECTION HISTORY

PL 2001, c. 428, §1 (NEW). PL 2015, c. 485, §2 (AMD).

§1118-A. Aggravated illegal importation of scheduled drugs

1. A person is guilty of aggravated illegal importation of a scheduled drug if the person violates section 1118 and:

A. At the time of the offense, the person has one or more prior convictions for any Class A, B or C offense under this chapter or for engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter in another jurisdiction and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a Class B crime.

Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, the date of each prior conviction may precede the commission of the offense being enhanced by more than 10 years; [RR 2015, c. 2, §9 (COR).]

B. At the time of the offense, the person possesses a firearm in the furtherance of the offense, uses a firearm, carries a firearm or is armed with a firearm, and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a Class B crime; [PL 2015, c. 485, §3 (NEW).]

C. At the time of the offense, the person illegally imports cocaine in a quantity of 112 grams or more or cocaine in the form of cocaine base in a quantity of 32 grams or more. Violation of this paragraph is a Class A crime; [PL 2015, c. 485, §3 (NEW).]

D. At the time of the offense, the person enlists or solicits the aid of or conspires with a child who is in fact less than 18 years of age to illegally import a scheduled drug and the drug is:

(1) A schedule W drug. Violation of this subparagraph is a Class A crime; or

(2) A schedule X, Y or Z drug. Violation of this subparagraph is a Class B crime; [PL 2015, c. 485, §3 (NEW).]

E. At the time of the offense, the person illegally imports methamphetamine or amphetamine in a quantity of 300 or more pills, capsules, tablets or units or 100 grams or more. Violation of this paragraph is a Class A crime; [PL 2015, c. 485, §3 (NEW).]

F. At the time of the offense, the person illegally imports heroin in a quantity of 6 grams or more or 270 or more individual bags, folds, packages, envelopes or containers of any kind containing heroin. Violation of this paragraph is a Class A crime; [PL 2015, c. 485, §3 (NEW).]

G. At the time of the offense, the person illegally imports 300 or more pills, capsules, tablets, vials, ampules, syringes or units containing any narcotic drug other than heroin, or any quantity of pills, capsules, tablets, units, compounds, mixtures or substances that, in the aggregate, contains 8,000 milligrams or more of oxycodone or 1,000 milligrams or more of hydromorphone. Violation of this paragraph is a Class A crime; [PL 2015, c. 485, §3 (NEW).]

H. At the time of the offense, the person illegally imports a quantity of 300 or more pills, capsules, tablets or units containing 3, 4-methylenedioxymethamphetamine, MDMA, or any other drug listed in section 1102, subsection 1, paragraph O. Violation of this paragraph is a Class A crime; or [PL 2015, c. 485, §3 (NEW).]

I. Death is in fact caused by the use of that scheduled drug and the drug is a schedule W drug. A violation of this paragraph is a Class A crime. [PL 2015, c. 485, §3 (NEW).]

[RR 2015, c. 2, §9 (COR).]

2. If a person uses a motor vehicle to facilitate the aggravated illegal importation of a scheduled drug, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply

for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[PL 2015, c. 485, §3 (NEW).]

SECTION HISTORY

RR 2015, c. 2, §9 (COR). PL 2015, c. 485, §3 (NEW).

§1119. Unlawful possession of synthetic hallucinogenic drugs

(REPEALED)

SECTION HISTORY

PL 2011, c. 465, §6 (NEW). PL 2013, c. 194, §10 (RP).

§1120. Unlawful trafficking in synthetic hallucinogenic drugs

(REPEALED)

SECTION HISTORY

PL 2011, c. 465, §6 (NEW). PL 2013, c. 194, §10 (RP).

§1121. Aggravated trafficking in synthetic hallucinogenic drugs

(REPEALED)

SECTION HISTORY

PL 2011, c. 465, §6 (NEW). PL 2013, c. 194, §10 (RP).

§1122. Unlawfully furnishing synthetic hallucinogenic drugs

(REPEALED)

SECTION HISTORY

PL 2011, c. 465, §6 (NEW). PL 2013, c. 194, §10 (RP).

§1123. Aggravated furnishing of synthetic hallucinogenic drugs

(REPEALED)

SECTION HISTORY

PL 2011, c. 465, §6 (NEW). PL 2013, c. 194, §10 (RP).

§1124. Unlawful operation of a methamphetamine laboratory

1. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Methamphetamine catalyst" means any substance that has been used, is being used or is intended to be used to activate, accelerate, extend or improve a chemical reaction involved in the manufacture of methamphetamine. [PL 2015, c. 346, §7 (NEW).]

B. "Methamphetamine precursor" means any substance that can be directly or indirectly transformed into methamphetamine by means of chemical synthesis, including, but not limited to, ephedrine, pseudoephedrine, benzyl methyl ketone, phenylacetone, phenylacetic acid, phenyl-2-propanone (P2P) or any salt, isomer or salt of isomers of these chemicals. [PL 2015, c. 346, §7 (NEW).]

C. "Methamphetamine reagent" means any substance other than a methamphetamine catalyst that has been used, is being used or is intended to be used to react with and chemically alter any methamphetamine precursor. [PL 2015, c. 346, §7 (NEW).]

D. "Methamphetamine solvent" means any substance that has been used, is being used or is intended to be used as a medium in which any methamphetamine precursor, methamphetamine catalyst, methamphetamine reagent or any substance containing any of the foregoing is dissolved, diluted or washed during any part of the methamphetamine manufacturing process. [PL 2015, c. 346, §7 (NEW).]

[PL 2015, c. 346, §7 (NEW).]

2. A person is guilty of unlawful operation of a methamphetamine laboratory if that person intentionally or knowingly produces, prepares, compounds, converts or processes any methamphetamine precursor, methamphetamine catalyst, methamphetamine reagent or methamphetamine solvent with the intent that methamphetamine be produced.

It is not a defense that the chemical reaction is not complete or that no scheduled drug was in fact created.

Violation of this subsection is a Class B crime.

[PL 2015, c. 346, §7 (NEW).]

3. If a person uses a motor vehicle to facilitate the unlawful operation of a methamphetamine laboratory, the court may, in addition to other authorized penalties, suspend the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license for a period not to exceed 5 years. A suspension may not begin until after any period of incarceration is served. If the court suspends a person's driver's license or permit, privilege to operate a motor vehicle or right to apply for or obtain a license, the court shall notify the Secretary of State of the suspension and the court shall take physical custody of the person's license or permit. The Secretary of State may not reinstate the person's driver's license or permit or privilege to operate a motor vehicle or right to apply for or obtain a license unless the person demonstrates that, after having been released and discharged from any period of incarceration that may have been ordered, the person has served the period of suspension ordered by the court.

[PL 2015, c. 346, §7 (NEW).]

SECTION HISTORY

PL 2015, c. 346, §7 (NEW).

§1125. Mandatory minimum term of imprisonment for certain drug offenses

1. Minimum term of imprisonment. Except as otherwise provided in subsections 2 and 3, for a person convicted of violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A the minimum term of imprisonment, which may not be suspended, is as follows:

A. When the sentencing class is Class A, the minimum term of imprisonment is 4 years; [PL 2019, c. 113, Pt. B, §16 (NEW).]

B. When the sentencing class is Class B, the minimum term of imprisonment is 2 years; and [PL 2019, c. 113, Pt. B, §16 (NEW).]

C. 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. [PL 2019, c. 113, Pt. B, §16 (NEW).]

[PL 2019, c. 113, Pt. B, §16 (NEW).]

2. Finding by court necessary to impose other than mandatory minimum term of imprisonment. The court may impose a sentence other than a minimum unsuspended term of imprisonment set forth in subsection 1 if:

A. The court finds by substantial evidence that:

(1) Imposition of a minimum unsuspended term of imprisonment under subsection 1 will result in substantial injustice to the individual. In making this determination, the court shall consider, among other considerations, whether the individual did not know and reasonably should not have known that the victim was less than 18 years of age;

(2) Failure to impose a minimum unsuspended term of imprisonment under subsection 1 will not have an adverse effect on public safety; and

(3) Failure to impose a minimum unsuspended term of imprisonment under subsection 1 will not appreciably impair the effect of subsection 1 in deterring others from violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A; and [PL 2019, c. 113, Pt. B, §16 (NEW).]

B. The court finds that the individual's background, attitude and prospects for rehabilitation and the nature of the victim and the offense indicate that imposition of a sentence under subsection 1 would frustrate the general purposes of sentencing set forth in section 1501. [PL 2019, c. 113, Pt. B, §16 (NEW).]

If the court imposes a sentence under this subsection, the court shall state in writing or on the record its reasons for its findings and for imposing a sentence under this subsection rather than under subsection 1.
[PL 2019, c. 113, Pt. B, §16 (NEW).]

3. Reduced mandatory minimum term of imprisonment. If the court imposes a sentence under subsection 2, the minimum term of imprisonment, which may not be suspended, is as follows:

A. When the sentencing class is Class A, the minimum term of imprisonment is 9 months; [PL 2019, c. 113, Pt. B, §16 (NEW).]

B. When the sentencing class is Class B, the minimum term of imprisonment is 6 months; and [PL 2019, c. 113, Pt. B, §16 (NEW).]

C. 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. [PL 2019, c. 113, Pt. B, §16 (NEW).]
[PL 2019, c. 113, Pt. B, §16 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. B, §16 (NEW).

§1126. Special sentencing provisions regarding fines for certain drug offenses

1. Fine based on value of scheduled drugs at time of offense. As authorized by section 1706, subsection 3, if the State pleads and proves the value at the time of the commission of a crime of a scheduled drug that is the basis for a conviction under section 1103, 1105-A, 1105-B, 1105-C, 1105-D, 1106 or 1107-A, the convicted person may be sentenced to pay a fine in an amount up to the value, as pleaded and proved by the State, of that scheduled drug.
[PL 2019, c. 113, Pt. B, §17 (NEW).]

2. Mandatory minimum fine barring court finding exceptional circumstances. In addition to any other authorized sentencing alternative specified in section 1502, subsection 2 for individuals or section 1502, subsection 7 for organizations, the court shall impose a minimum fine of $400, none of which may be suspended, except as provided in subsection 3, for an individual convicted of a crime under section 1103; 1104; 1105-A; 1105-B; 1105-C; 1105-D; 1106; 1107-A; 1108; 1109; 1110; 1111; 1111-A, subsection 4-A; 1116; 1117; or 1118.
[PL 2019, c. 113, Pt. B, §17 (NEW).]

3. Finding by court necessary to impose other than minimum fine. In the case of an individual, the court may suspend all or a portion of a minimum fine under subsection 2 or impose a fine less than the minimum fine specified in subsection 2 if the court finds by a preponderance of the evidence that there are exceptional circumstances that justify imposition of a lesser financial penalty. In making a finding of exceptional circumstances, the court may consider:

A. Reliable evidence of financial hardship on the part of the individual and the individual's family and dependents; [PL 2019, c. 113, Pt. B, §17 (NEW).]

B. Reliable evidence of special needs of the individual or the individual's family and dependents; [PL 2019, c. 113, Pt. B, §17 (NEW).]

C. Reliable evidence of the individual's income and future earning capacity and the individual's assets and financial resources from whatever source; [PL 2019, c. 113, Pt. B, §17 (NEW).]

D. Reliable evidence regarding any pecuniary gain derived from the commission of the offense; and [PL 2019, c. 113, Pt. B, §17 (NEW).]

E. The impact of imposition of the mandatory fine on the individual's reasonable ability to pay restitution under chapter 69. [PL 2019, c. 113, Pt. B, §17 (NEW).]

[PL 2019, c. 113, Pt. B, §17 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. B, §17 (NEW).

PART 3

CHAPTER 47

GENERAL SENTENCING PROVISIONS

§1151. Purposes

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1983, c. 152 (AMD). PL 1983, c. 480, §B24 (AMD). PL 1995, c. 149, §1 (AMD). PL 2005, c. 551, §1 (AMD). PL 2015, c. 306, §3 (AMD). PL 2017, c. 105, §§1-3 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1152. Authorized sentences

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§107,108 (AMD). PL 1977, c. 53, §§1,2 (AMD). PL 1977, c. 455, §1 (AMD). PL 1977, c. 510, §§67-A (AMD). PL 1981, c. 493, §2 (AMD). PL 1985, c. 821, §§3,4 (AMD). PL 1987, c. 157, §§1,2 (AMD). PL 1987, c. 769, §B3 (AMD). PL 1989, c. 502, §§D10-13 (AMD). PL 1991, c. 288 (AMD). PL 1991, c. 824, §A25 (AMD). PL 1993, c. 103, §§1-3 (AMD). PL 1995, c. 136, §§1-3 (AMD). PL 1995, c. 560, §K82 (AMD). PL 1995, c. 560, §K83 (AFF). PL 1995, c. 680, §4 (AMD). PL 1999, c. 24, §1 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 439, §OOO2 (AMD). PL 2003, c. 689, §B6 (REV). PL 2003, c. 711, §§A7-9,B13 (AMD). PL 2005, c. 265, §§1-3 (AMD). PL 2005, c. 527, §§12,13 (AMD). PL 2009, c. 142, §5 (AMD). PL 2009, c. 365, Pt. A, §3 (AMD). PL 2013, c. 133, §§8, 9 (AMD). PL 2015, c. 308, §3 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1153. Sanctions for organizations

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1154. Sentences in excess of one year deemed tentative

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1981, c. 324, §28 (RP).

§1155. Multiple sentences of imprisonment

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1979, c. 512, §35 (RPR). PL 1981, c. 324, §29 (RP).

§1155-A. Multiple fines

(REPEALED)

SECTION HISTORY

PL 1979, c. 512, §36 (NEW). PL 1981, c. 324, §30 (RP).

§1156. Sentence for burglary

(REPEALED)

SECTION HISTORY

PL 1975, c. 740, §§108-A (NEW). PL 1979, c. 512, §37 (AMD). PL 1981, c. 324, §31 (RP).

§1157. Criminal history reports

(REPEALED)

SECTION HISTORY

PL 1977, c. 384, §5 (NEW). PL 1977, c. 696, §171 (AMD). PL 1981, c. 324, §32 (RP).

§1158. Forfeiture of firearms

(REPEALED)

SECTION HISTORY

PL 1989, c. 382 (NEW). PL 1989, c. 815 (AMD). PL 1995, c. 252, §1 (AMD). RR 2001, c. 2, §A26 (COR). RR 2001, c. 2, §A27 (AFF). PL 2001, c. 348, §3 (AMD). PL 2001, c. 383, §149 (RPR). PL 2001, c. 383, §156 (AFF). PL 2001, c. 667, §A37 (RPR). PL 2001, c. 667, §A38 (AFF). PL 2003, c. 143, §7 (AMD). PL 2003, c. 657, §6 (RP).

§1158-A. Forfeiture of firearms

(REPEALED)

SECTION HISTORY

PL 2003, c. 657, §7 (NEW). PL 2009, c. 336, §13 (AMD). PL 2013, c. 328, §§3-5 (AMD). PL 2015, c. 485, §4 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1159. Recalcitrant witness in execution of sentence involving imprisonment

(REPEALED)

SECTION HISTORY

PL 2003, c. 143, §8 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 48

VICTIMS' RIGHTS

§1171. Definitions

(REPEALED)

SECTION HISTORY

PL 1995, c. 680, §5 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1172. Victims to be notified

(REPEALED)

SECTION HISTORY

PL 1995, c. 680, §5 (NEW). PL 1997, c. 286, §1 (AMD). PL 1997, c. 615, §1 (AMD). PL 2005, c. 265, §§4,5 (AMD). PL 2015, c. 431, §37 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1173. Plea agreement procedure

(REPEALED)

SECTION HISTORY

PL 1995, c. 680, §5 (NEW). PL 2015, c. 431, §38 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1174. Sentencing procedure

(REPEALED)

SECTION HISTORY

PL 1995, c. 680, §5 (NEW). PL 2015, c. 282, §1 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1174-A. Termination or conversion procedure

(REPEALED)

SECTION HISTORY

PL 2005, c. 265, §6 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1175. Notification of defendant's release or escape

(REPEALED)

SECTION HISTORY

PL 1995, c. 680, §5 (NEW). RR 1999, c. 2, §20 (COR). PL 1999, c. 126, §1 (AMD). PL 2001, c. 354, §3 (AMD). PL 2003, c. 186, §1 (AMD). PL 2003, c. 689, §B7 (REV). PL 2005, c. 488, §§3,4 (AMD). PL 2005, c. 527, §§14-16 (AMD). PL 2009, c. 268, §§8-10 (AMD). PL 2009, c. 391, §1 (AMD). PL 2009, c. 652, Pt. A, §17 (AMD). PL 2013, c. 133, §§10, 11 (AMD). PL 2017, c. 128, §§1-3 (AMD). PL 2017, c. 386, §1 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1175-A. Notification of defendant's release on bail

(REPEALED)

SECTION HISTORY

PL 2011, c. 639, §1 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1176. Confidentiality of victim records

(REPEALED)

SECTION HISTORY

PL 2005, c. 389, §1 (NEW). PL 2007, c. 475, §13 (RPR). PL 2015, c. 431, §39 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1177. Certain communications by victims confidential

(REPEALED)

SECTION HISTORY

RR 2009, c. 2, §40 (COR). PL 2009, c. 608, §7 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 49

PROBATION

§1201. Eligibility for a sentence alternative that includes a period of probation

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §109 (AMD). PL 1977, c. 53, §3 (AMD). PL 1977, c. 510, §68 (AMD). PL 1987, c. 361, §3 (AMD). PL 1999, c. 24, §2 (AMD). PL 2003, c. 711, §A10 (AMD). PL 2005, c. 265, §7 (AMD). PL 2007, c. 340, §1 (AMD). PL 2007, c. 344, §1 (AMD). PL 2007, c. 475, §14 (AMD). PL 2007, c. 577, §4 (AMD). PL 2009, c. 573, §3 (AMD). PL 2011, c. 465, §7 (AMD). PL 2011, c. 640, Pt. B, §7 (AMD). PL 2013, c. 194, §11 (AMD). PL 2015, c. 358, §4 (AMD). PL 2015, c. 443, §8 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1202. Period of probation; modification and discharge

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1985, c. 821, §5 (AMD). PL 1989, c. 393 (AMD). PL 1989, c. 739, §1 (AMD). PL 1991, c. 258 (AMD). PL 1997, c. 395, §M1 (AMD). PL 1997, c. 421, §B1 (AMD). PL 1999, c. 492, §1 (AMD). PL 1999, c. 788, §2 (AMD). PL 2001, c. 386, §3 (AMD). PL 2003, c. 154, §1 (AMD). PL 2003, c. 657, §8 (AMD). PL 2003, c. 711, §§A11-14,B14 -16 (AMD). PL 2005, c. 265, §§8-10 (AMD). PL 2005, c. 673, §1 (AMD). PL 2007, c. 475, §§15, 16 (AMD). PL 2009, c. 142, §6 (AMD). PL 2009, c. 336, §14 (AMD). PL 2009, c. 608, §8 (AMD). PL 2011, c. 420, Pt. C, §3 (AMD). PL 2013, c. 133, §12 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1203. Split sentences

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §69 (AMD). PL 1977, c. 671, §27 (RPR). PL 1979, c. 379, §§1,2 (AMD). PL 1979, c. 512, §§38-40 (AMD). PL 1979, c. 663, §122 (AMD). PL 1979, c. 707, §1 (AMD). PL 1983, c. 268, §§1,2 (AMD). PL 1983, c. 673, §§1,2 (AMD). PL 1985, c. 282, §5 (AMD). PL 1985, c. 821, §6 (AMD). PL 1989, c. 693, §1 (AMD). PL 1989, c. 925, §10 (AMD). PL 1995, c. 425, §1 (AMD). PL 1999, c. 24, §3 (AMD). PL 1999, c. 788,

§§3-5 (AMD). PL 2003, c. 711, §B17 (AMD). PL 2007, c. 344, §2 (AMD). PL 2017, c. 128, §4 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1203-A. Suspension of last portion of sentence with probation

(REPEALED)

SECTION HISTORY

PL 1979, c. 512, §41 (NEW). PL 1979, c. 707, §2 (RP). PL 1981, c. 470, §A39 (REEN). PL 1983, c. 268, §3 (RP).

§1203-B. Suspension; probation

(REPEALED)

SECTION HISTORY

PL 1979, c. 701, §27 (NEW). PL 1981, c. 470, §A40 (RP).

§1203-C. Wholly suspended sentence with probation

(REPEALED)

SECTION HISTORY

PL 1999, c. 24, §4 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1204. Conditions of probation

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§110,110-A (AMD). PL 1977, c. 53, §4 (AMD). PL 1977, c. 455, §2 (AMD). PL 1977, c. 510, §70 (AMD). PL 1977, c. 671, §§28,29 (AMD). PL 1987, c. 361, §4 (AMD). PL 1989, c. 693, §§2,3 (AMD). PL 1989, c. 875, §§E23,24 (AMD). PL 1991, c. 783, §1 (AMD). PL 1993, c. 511, §1 (AMD). PL 1995, c. 368, §§R2,3 (AMD). PL 1995, c. 405, §1 (AMD). PL 1995, c. 502, §§F11,12 (AMD). PL 1995, c. 680, §6 (AMD). PL 1995, c. 694, §D26 (AMD). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 422, §1 (AMD). PL 1999, c. 437, §1 (AMD). PL 2001, c. 354, §3 (AMD). PL 2001, c. 439, §OOO3 (AMD). PL 2003, c. 689, §B6 (REV). PL 2003, c. 706, §A5 (AMD). PL 2005, c. 389, §2 (AMD). PL 2005, c. 488, §5 (AMD). PL 2009, c. 142, §7 (AMD). PL 2009, c. 365, Pt. A, §4 (AMD). PL 2009, c. 608, §9 (AMD). PL 2013, c. 133, §13 (AMD). PL 2013, c. 227, §§2-4 (AMD). PL 2017, c. 105, §4 (AMD). PL 2017, c. 407, Pt. A, §55 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1204-A. Community reparations boards

(REPEALED)

SECTION HISTORY

PL 1997, c. 421, §B2 (NEW). PL 1999, c. 167, §2 (AMD). PL 1999, c. 790, §A54 (AFF). PL 2019, c. 113, Pt. A, §1 (RP).

§1205. Commencement of probation revocation proceedings by arrest

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§111,112 (AMD). PL 1977, c. 510, §71 (RPR). PL 1979, c. 701, §28 (AMD). PL 1987, c. 315, §1 (AMD). PL 1995, c. 502, §F13 (AMD). PL 1997, c. 273, §1 (AMD). PL 1999, c. 246, §1 (AMD). PL 2005, c. 661, §§1,2 (AMD). PL 2005, c. 661, §9 (AFF). PL 2019, c. 113, Pt. A, §1 (RP).

§1205-A. Administrative preliminary hearing for arrested probationer

(REPEALED)

SECTION HISTORY

PL 1977, c. 510, §72 (NEW). PL 1995, c. 502, §F14 (AMD). PL 1999, c. 246, §2 (AMD). PL 2005, c. 326, §4 (AMD). PL 2005, c. 326, §5 (AFF). PL 2005, c. 661, §3 (RP). PL 2005, c. 661, §9 (AFF).

§1205-B. Commencement of probation revocation proceedings by summons

(REPEALED)

SECTION HISTORY

PL 1999, c. 246, §3 (NEW). PL 2005, c. 661, §4 (AMD). PL 2005, c. 661, §9 (AFF). PL 2019, c. 113, Pt. A, §1 (RP).

§1205-C. Initial proceedings on probation violation; filing of motion; initial appearance

(REPEALED)

SECTION HISTORY

PL 1999, c. 246, §3 (NEW). PL 2003, c. 657, §9 (AMD). PL 2005, c. 661, §§5-7 (AMD). PL 2005, c. 661, §9 (AFF). PL 2015, c. 436, §8 (AMD). PL 2017, c. 214, §1 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1206. Court hearing on probation revocation

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §113 (AMD). PL 1977, c. 510, §73 (RPR). PL 1979, c. 512, §§42,43 (AMD). PL 1983, c. 450, §§5-9 (AMD). PL 1989, c. 693, §4 (AMD). PL 1989, c. 728, §1 (AMD). PL 1993, c. 234, §§1,2 (AMD). PL 1997, c. 273, §2 (AMD). PL 1999, c. 246, §§4-7 (AMD). PL 1999, c. 788, §6 (AMD). PL 2005, c. 507, §§14,15 (AMD). PL 2007, c. 344, §3 (AMD). PL 2015, c. 358, §5 (AMD). PL 2015, c. 431, §40 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1207. Review

(REPEALED)

SECTION HISTORY

PL 1979, c. 701, §29 (NEW). PL 1981, c. 238, §9 (AMD). PL 1993, c. 234, §3 (AMD). PL 1997, c. 273, §3 (RPR). PL 1999, c. 731, §ZZZ25 (AMD). PL 1999, c. 731, §ZZZ42 (AFF). PL 2003, c. 17, §5 (AMD). PL 2015, c. 431, §41 (RPR). PL 2019, c. 113, Pt. A, §1 (RP).

§1208. In lieu of probation revocation proceedings

(REPEALED)

SECTION HISTORY

PL 1995, c. 368, §R4 (NEW). PL 2013, c. 133, §14 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 50

SUPERVISED RELEASE FOR SEX OFFENDERS

§1231. Inclusion of period of supervised release after imprisonment

(REPEALED)

SECTION HISTORY

PL 1999, c. 788, §7 (NEW). PL 2003, c. 205, §5 (AMD). PL 2003, c. 711, §B18 (AMD). PL 2005, c. 673, §2 (AMD). PL 2007, c. 344, §§4, 5 (AMD). PL 2015, c. 358, §6 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1232. Conditions of supervised release

(REPEALED)

SECTION HISTORY

PL 1999, c. 788, §7 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1233. Revocation procedures

(REPEALED)

SECTION HISTORY

PL 1999, c. 788, §7 (NEW). PL 2005, c. 207, §3 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 51

SENTENCES OF IMPRISONMENT

§1251. Imprisonment for murder

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§114,115 (AMD). PL 1977, c. 510, §74 (RPR). PL 1983, c. 581, §3 (RPR). PL 1983, c. 673, §3 (RPR). PL 1999, c. 536, §1 (AMD). PL 2005, c. 88, §B1 (AMD). PL 2017, c. 374, §1 (RPR). PL 2019, c. 113, Pt. A, §1 (RP).

§1252. Imprisonment for crimes other than murder

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§116-118, 118A (AMD). PL 1977, c. 176 (AMD). PL 1977, c. 196 (AMD). PL 1977, c. 217 (AMD). PL 1977, c. 510, §§75-78 (AMD). PL 1979, c. 701, §30 (AMD). PL 1983, c. 581, §4 (AMD). PL 1983, c. 673, §4 (AMD). PL 1983, c. 816, §A6 (AMD). PL 1985, c. 821, §§7-10 (AMD). PL 1987, c. 535, §7 (AMD). PL 1987, c. 808, §§1, 3 (AMD). PL 1989, c. 693, §§5-7 (AMD). PL 1989, c. 925, §11 (AMD). PL 1991, c. 622, §N3 (NEW). PL 1995, c. 28, §1 (AMD). PL 1995, c. 425, §2 (AMD). PL 1995, c. 473, §1 (AMD). PL 1997, c. 460, §5 (AMD). PL 1999, c. 374, §6 (AMD). PL 1999, c. 536, §2 (AMD). PL 1999, c. 788, §8 (AMD). PL 2001, c. 383, §§150, 151 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 439, §OOO4 (AMD). PL 2001, c. 667, §A39 (AMD). PL 2001, c. 667, §A40 (AFF). PL 2003, c. 1, §10 (AMD). PL 2003, c. 143, §9 (AMD). PL 2003, c. 232, §1 (AMD). PL 2003, c. 475, §1 (AMD). PL 2003, c. 657, §10 (AMD). PL 2003, c. 688, §A14 (AMD). PL 2003, c. 711, §§B19,20 (AMD). PL 2005, c. 88, §B2 (AMD). PL 2005, c. 447, §1 (AMD). PL 2005, c. 527, §§17-20 (AMD). PL 2005, c. 673, §§3, 4 (AMD). PL 2007, c. 476, §§45, 46 (AMD). PL 2007, c. 685, §2 (AMD). PL 2013, c. 133, §15 (AMD). PL 2015, c. 358, §7 (AMD). PL 2015, c. 470, §13 (AMD). PL 2015, c. 485, §5 (AMD). PL 2017, c. 336, §1 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1252-A. Deductions

(REPEALED)

SECTION HISTORY

PL 1987, c. 361, §5 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1252-B. Imposition of sentence; consideration of good time and meritorious good time at the time of sentencing

(REPEALED)

SECTION HISTORY

PL 1987, c. 808, §2 (NEW). PL 1995, c. 433, §1 (RPR). PL 2003, c. 143, §10 (RP). PL 2003, c. 143, §14 (AFF).

§1252-C. Sentencing procedure relating to the imposition of imprisonment

(REPEALED)

SECTION HISTORY

PL 1995, c. 69, §1 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1253. Calculation of period of imprisonment

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1977, c. 510, §§79-81 (AMD). PL 1977, c. 671, §§30-33 (AMD). PL 1979, c. 701, §31 (AMD). PL 1981, c. 317, §§25,26 (AMD). PL 1981, c. 470, §§B7,7-A (AMD). PL 1983, c. 450, §10 (AMD). PL 1983, c. 456, §§1-8 (AMD). PL 1985, c. 282, §6 (AMD). PL 1985, c. 285, §§1-3 (AMD). PL 1985, c. 456, §§1,2 (AMD). PL 1985, c. 821, §§11,12 (AMD). PL 1987, c. 737, §§C30,C31, C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1989, c. 113, §3 (AMD). PL 1989, c. 693, §§8,9 (AMD). PL 1991, c. 259, §§1,2 (AMD). PL 1991, c. 364, §1 (AMD). PL 1991, c. 737, §1 (AMD). PL 1993, c. 518, §§1-4 (AMD). PL 1995, c. 433, §§2-4 (AMD). PL 1997, c. 464, §4 (AMD). PL 2003, c. 205, §6 (AMD). PL 2003, c. 706, §A6 (AMD). PL 2003, c. 711, §§A15-18 (AMD). PL 2005, c. 207, §4 (AMD). PL 2005, c. 507, §16 (AMD). PL 2007, c. 102, §5 (AMD). PL 2011, c. 464, §21 (AMD). PL 2013, c. 133, §16 (AMD). PL 2015, c. 431, §42 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1254. Release from imprisonment

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§119,120 (AMD). PL 1977, c. 510, §82 (AMD). PL 1981, c. 493, §3 (AMD). PL 1985, c. 456, §3 (AMD). PL 1985, c. 821, §13 (AMD). PL 1987, c. 61 (AMD). PL 1989, c. 215 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1255. Sentences in excess of one year deemed tentative

(REPEALED)

SECTION HISTORY

PL 1981, c. 324, §33 (NEW). PL 1983, c. 714 (RP).

§1256. Multiple sentences of imprisonment

(REPEALED)

SECTION HISTORY

PL 1981, c. 324, §34 (NEW). PL 1983, c. 408, §§3,4 (AMD). PL 1985, c. 282, §7 (AMD). PL 1985, c. 821, §14 (AMD). PL 1987, c. 361, §6 (AMD). PL 1989, c. 739, §2 (AMD). PL 1993, c. 522, §1 (AMD). PL 1999, c. 458, §1 (AMD). PL 1999, c. 788, §9 (AMD). PL 2005, c. 329, §4 (AMD). PL 2009, c. 142, §8 (AMD). PL 2013, c. 133, §17 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1257. Victim's right to participate in sentence

(REPEALED)

SECTION HISTORY

PL 1983, c. 352, §2 (NEW). PL 1983, c. 581, §5 (NEW). PL 1983, c. 673, §5 (RP). PL 1995, c. 680, §§7-9 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1257-A. Notification of perpetrator's release

(REPEALED)

SECTION HISTORY

PL 1985, c. 266, §1 (NEW). PL 1989, c. 502, §D14 (AMD). PL 1995, c. 164, §1 (AMD). PL 1995, c. 680, §10 (RP).

§1258. Notification of commitments to the Department of Corrections

(REPEALED)

SECTION HISTORY

PL 1983, c. 673, §6 (NEW). PL 2001, c. 458, §1 (AMD). PL 2005, c. 488, §6 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1259. Commitments to the Department of Corrections of bound-over juveniles who have not attained 18 years of age at the time of sentence imposition

(REPEALED)

SECTION HISTORY

PL 2007, c. 686, §1 (NEW). PL 2013, c. 28, §9 (AMD). PL 2015, c. 291, §1 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 52

INTENSIVE SUPERVISION

§1261. Intensive supervision established

(REPEALED)

SECTION HISTORY

PL 1985, c. 821, §15 (NEW). PL 1991, c. 133, §1 (AMD). PL 2013, c. 133, §18 (RP).

§1262. Sentences of imprisonment with intensive supervision

(REPEALED)

SECTION HISTORY

PL 1985, c. 821, §15 (NEW). PL 1987, c. 672 (AMD). PL 1989, c. 113, §4 (AMD). PL 1991, c. 133, §2 (AMD). PL 1991, c. 344 (AMD). PL 1991, c. 364, §2 (AMD). PL 1995, c. 502, §F15 (AMD). PL 2013, c. 133, §18 (RP).

§1263. Eligibility for imprisonment with intensive supervision

(REPEALED)

SECTION HISTORY

PL 1985, c. 821, §15 (NEW). PL 1989, c. 728, §§2,3 (AMD). PL 1999, c. 788, §10 (AMD). PL 2013, c. 133, §18 (RP).

§1264. Conditions of imprisonment with intensive supervision

(REPEALED)

SECTION HISTORY

PL 1985, c. 821, §15 (NEW). PL 1991, c. 845, §3 (AMD). PL 2013, c. 133, §18 (RP).

§1265. Termination of intensive supervision

(REPEALED)

SECTION HISTORY

PL 1985, c. 821, §15 (NEW). PL 2013, c. 133, §18 (RP).

§1266. Sentence for crime committed by prisoner on intensive supervision

(REPEALED)

SECTION HISTORY

PL 1985, c. 821, §15 (NEW). PL 2009, c. 142, §9 (RP).

§1267. Intensive supervision upon revocation of probation

(REPEALED)

SECTION HISTORY

PL 1989, c. 728, §4 (NEW). PL 2013, c. 133, §18 (RP).

§1268. Application

(REPEALED)

SECTION HISTORY

PL 1995, c. 368, §R5 (NEW). PL 2013, c. 133, §18 (RP).

CHAPTER 53

FINES

§1301. Amounts authorized

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §§121-123 (AMD). PL 1977, c. 510, §§83-86 (AMD). PL 1981, c. 317, §27 (AMD). PL 1985, c. 699 (AMD). PL 1989, c. 872, §§3,4 (AMD). PL 1991, c. 355, §§1,2 (AMD). PL 2001, c. 383, §152 (AMD). PL 2001, c. 383, §156 (AFF).

RR 2005, c. 1, §2 (COR). PL 2005, c. 386, §DD2 (AMD). PL 2011, c. 464, §22 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1301-A. Use of fine relative to natural persons

(REPEALED)

SECTION HISTORY

PL 1999, c. 367, §2 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1302. Criteria for imposing fines

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1993, c. 103, §4 (AMD). PL 1999, c. 367, §3 (RPR). PL 2003, c. 143, §11 (AMD). PL 2015, c. 436, §9 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1302-A. Multiple fines

(REPEALED)

SECTION HISTORY

PL 1981, c. 324, §35 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1303. Time and method of payment of fines

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1303-A. Postconviction relief

(REPEALED)

SECTION HISTORY

PL 1999, c. 367, §4 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1303-B. Modification of payment of fine

(REPEALED)

SECTION HISTORY

PL 1999, c. 367, §4 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1304. Default

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1987, c. 769, §B4 (AMD). PL 1987, c. 861, §15 (AMD). PL 1997, c. 54, §1 (AMD). PL 1997, c. 135, §3 (AMD). PL 1997, c. 393, §B8 (AMD). PL 1999, c. 367, §5 (RPR). PL 2007, c. 517, §§1-4 (AMD). PL 2007, c. 518, §7 (AMD). PL 2009, c. 608, §§10, 11 (AMD). PL 2011, c. 334, §1 (AMD). PL 2011, c. 568, §1 (AMD). PL 2013, c. 266, §8 (AMD). PL 2015, c. 436, §10 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1305. Revocation of fines

(REPEALED)

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1999, c. 367, §6 (RP).

§1306. Deposit of certain fines in Maine Military Family Relief Fund

(REPEALED)

SECTION HISTORY

PL 2015, c. 437, §2 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 54

RESTITUTION

§1321. Purpose

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1322. Definitions

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 1987, c. 157, §3 (AMD). PL 1987, c. 769, §A56 (AMD). PL 1989, c. 188 (AMD). PL 1989, c. 872, §5 (AMD). PL 1989, c. 924, §13 (AMD). PL 1991, c. 394 (AMD). PL 1993, c. 305, §1 (AMD). PL 2005, c. 447, §§2,3 (AMD). PL 2007, c. 684, Pt. D, §1 (AMD). PL 2007, c. 684, Pt. D, §3 (AFF). PL 2015, c. 346, §8 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1323. Mandatory consideration of restitution

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 1983, c. 352, §3 (RPR). PL 1983, c. 793, §1 (AMD). PL 1987, c. 157, §4 (AMD). PL 2005, c. 389, §3 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1324. Authorized claimants

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1325. Criteria for restitution

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 1987, c. 157, §5 (AMD). PL 1997, c. 413, §§1-3 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1326. Time and method of restitution

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 1991, c. 90 (AMD). PL 1991, c. 816, §1 (AMD). PL 1993, c. 147, §1 (AMD). PL 1995, c. 502, §F16 (AMD). PL 1999, c. 790, §D6 (RP).

§1326-A. Time and method of restitution

(REPEALED)

SECTION HISTORY

PL 1999, c. 469, §1 (NEW). PL 2009, c. 94, §3 (AMD). PL 2009, c. 608, §12 (AMD). PL 2011, c. 464, §23 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1326-B. Income withholding order

(REPEALED)

SECTION HISTORY

PL 1999, c. 469, §1 (NEW). PL 2009, c. 608, §13 (AMD). PL 2011, c. 464, §24 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1326-C. Deceased victims

(REPEALED)

SECTION HISTORY

PL 1999, c. 469, §1 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1326-D. Victim unable to be located

(REPEALED)

SECTION HISTORY

PL 2003, c. 706, §A7 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1326-E. Joint and several order

(REPEALED)

SECTION HISTORY

PL 2005, c. 389, §4 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1326-F. Former Department of Corrections' clients owing restitution

(REPEALED)

SECTION HISTORY

PL 2009, c. 608, §14 (NEW). PL 2011, c. 464, §25 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1327. Restitution deducted from judgment in civil action

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1328. Postconviction relief

(REPEALED)

SECTION HISTORY

PL 1977, c. 455, §3 (NEW). PL 1997, c. 413, §4 (RPR). PL 2019, c. 113, Pt. A, §1 (RP).

§1328-A. Modification of restitution

(REPEALED)

SECTION HISTORY

PL 1997, c. 413, §5 (NEW). PL 2009, c. 94, §4 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1329. Default

(REPEALED)

SECTION HISTORY

PL 1981, c. 360 (NEW). PL 1989, c. 502, §D15 (AMD). PL 1997, c. 413, §§6,7 (AMD). PL 1999, c. 367, §7 (AMD). PL 2007, c. 31, §3 (AMD). PL 2009, c. 608, §15 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1330. Work program release; restitution

(REPEALED)

SECTION HISTORY

PL 1983, c. 352, §4 (NEW). PL 1983, c. 793, §2 (AMD). PL 1987, c. 737, §§C32,C106 (AMD). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,C10 (AMD). PL 1995, c. 534, §1 (AMD). PL 1997, c. 358, §§1,2 (AMD). PL 1997, c. 752, §30 (AMD). PL 1999, c. 469, §§2,3 (AMD). PL 2005, c. 506, §§2,3 (AMD). PL 2011, c. 464, §26 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1330-A. Waiver of issue of excessiveness

(REPEALED)

SECTION HISTORY

PL 1997, c. 30, §1 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1330-B. Restitution for benefit of victim

(REPEALED)

SECTION HISTORY

PL 2003, c. 243, §6 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1330-C. Civil remedy upon default

(REPEALED)

SECTION HISTORY

PL 2015, c. 109, §1 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 54-A

PROTECTIVE ORDER

§1331. Protective orders in crimes between family members

(REPEALED)

SECTION HISTORY

PL 1979, c. 578, §§2,7 (NEW). PL 1979, c. 677, §3 (RP). PL 1979, c. 677, §18 (AMD). PL 1983, c. 583, §26 (AMD).

CHAPTER 54-B

COUNTY JAIL REIMBURSEMENT

§1341. Assessment of reimbursement fee against prisoners

(REPEALED)

SECTION HISTORY

PL 1985, c. 752, §1 (NEW). PL 1989, c. 375 (AMD). PL 1997, c. 88, §1 (AMD). PL 2005, c. 502, §1 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 54-C

COMMUNITY SERVICE WORK

§1345. Community service work

(REPEALED)

SECTION HISTORY

PL 1995, c. 136, §4 (NEW). PL 1995, c. 502, §F17 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 54-D

UNCONDITIONAL DISCHARGE

§1346. Sentencing alternative of unconditional discharge

(REPEALED)

SECTION HISTORY

PL 1999, c. 24, §5 (NEW). PL 2011, c. 464, §27 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 54-E

VIOLATION OF INTERSTATE COMPACT

§1347. Violation of interstate compact for adult offender supervision

(REPEALED)

SECTION HISTORY

PL 2003, c. 158, §1 (NEW). PL 2003, c. 706, §B2 (RP).

CHAPTER 54-F

DEFERRED DISPOSITION

§1348. Eligibility for deferred disposition

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2005, c. 527, §21 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1348-A. Deferred disposition

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2005, c. 265, §11 (AMD). PL 2005, c. 288, §1 (AMD). PL 2009, c. 336, §15 (AMD). PL 2013, c. 519, §8 (AMD). PL 2015, c. 496, §10 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1348-B. Court hearing as to final disposition

(PLACEHOLDER)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2005, c. 265, §§12-14 (AMD). PL 2005, c. 288, §2 (AMD). PL 2005, c. 683, §A20 (AMD). PL 2009, c. 336, §16 (AMD). PL 2015, c. 431, §43 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1348-C. Limited review by appeal

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

CHAPTER 54-G

ADMINISTRATIVE RELEASE

§1349. Eligibility for sentence alternative that includes period of administrative release

(REPEALED)

SECTION HISTORY

RR 2003, c. 2, §28 (COR). PL 2003, c. 711, §A19 (NEW). PL 2005, c. 265, §15 (AMD). PL 2005, c. 606, §B1 (AMD). PL 2007, c. 344, §6 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1349-A. Period of administrative release

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2005, c. 265, §16 (AMD). PL 2007, c. 344, §7 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1349-B. Suspended sentence with administrative release

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2005, c. 265, §17 (AMD). PL 2005, c. 606, §B2 (AMD). PL 2007, c. 344, §8 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1349-C. Requirements of administrative release

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2005, c. 288, §3 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1349-D. Commencement of administrative release revocation proceeding

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2005, c. 265, §18 (AMD). PL 2007, c. 344, §9 (AMD). PL 2009, c. 336, §17 (AMD). PL 2019, c. 113, Pt. A, §1 (RP).

§1349-E. Court hearing on administrative release revocation

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

§1349-F. Review

(REPEALED)

SECTION HISTORY

PL 2003, c. 711, §A19 (NEW). PL 2019, c. 113, Pt. A, §1 (RP).

PART 4

REVISION OF CRIMINAL LAWS

CHAPTER 55

CRIMINAL LAW ADVISORY COMMISSION

§1351. Establishment

The Criminal Law Advisory Commission, established by Title 5, section 12004-I, subsection 52, is created for the purpose of conducting a continuing study of the criminal law of Maine. [PL 1989, c. 503, Pt. B, §71 (AMD).]

SECTION HISTORY

PL 1975, c. 740, §124 (NEW). PL 1983, c. 812, §99 (RPR). PL 1989, c. 503, §B71 (AMD).

§1352. Membership; terms; vacancies

1. The commission shall be composed of 9 members to be appointed by the Attorney General. The members shall be qualified by reason of their experience in the prosecution or defense of criminal cases or by reason of their knowledge of the criminal law. At least 2 members shall be qualified by reason of their knowledge of juvenile law.
[PL 1977, c. 671, §34 (AMD).]

2. Members of the commission shall serve for a term of 2 years and may be reappointed.
[PL 1975, c. 740, §124 (NEW).]

3. In the event of the death or resignation of a member, the vacancy for the member's unexpired term must be filled by the Attorney General.
[PL 2003, c. 143, §12 (AMD).]

SECTION HISTORY

PL 1975, c. 740, §124 (NEW). PL 1977, c. 671, §34 (AMD). PL 2003, c. 143, §12 (AMD).

§1353. Consultants; experts

1. The Senate and House chairs of the joint standing committee of the Legislature having jurisdiction over the Maine Criminal Code and the Maine Juvenile Code, or their designees, serve as consultants to the commission. The Chief Justice of the Supreme Judicial Court shall appoint 4 consultants to the commission, at least one of whom must be an active member of the Superior Court and at least one of whom must be an active member of the District Court.
[PL 1995, c. 109, §1 (AMD).]

2. Whenever it deems it appropriate, the commission shall seek the advice of experts, including representatives of the executive departments, in fields related to its duties.
[PL 1975, c. 740, §124 (NEW).]

SECTION HISTORY

PL 1975, c. 740, §124 (NEW). PL 1995, c. 109, §1 (AMD).

§1354. Duties

1. It shall be the duty of the commission:

A. To examine the sections of the Revised Statutes outside of the Criminal Code which pertain to the criminal law and to draft such amendments to those sections as the commission deems advisable in light of the Criminal Code; [PL 1975, c. 740, §124 (NEW).]

B. To evaluate the operation of the Criminal Code and to recommend amendments to the code based on such evaluation; [PL 1975, c. 740, §124 (NEW).]

C. To examine the present laws pertaining to criminal pleadings and to consider possible changes, including, but not limited to, the adoption of code pleading and the preparation of pleading forms; [PL 1977, c. 671, §35 (AMD).]

D. To examine any other aspects of Maine's criminal law, including substantive, procedural and administrative matters, which the commission deems relevant; and [PL 1977, c. 671, §35 (AMD).]

E. To evaluate the operation of the Maine Juvenile Code, Title 15, Part 6, and to recommend amendments to that code based on that evaluation. [PL 1977, c. 671, §36 (NEW).]
[PL 1977, c. 671, §§35, 36 (AMD).]

2. The commission shall submit to the Legislature, at the start of each session, such changes in the criminal laws and in related provisions as the commission may determine appropriate. The commission may also make recommendations to the Chief Justice of the Supreme Judicial Court, the Advisory Committee on Criminal Rules and to any other organization or committee whose affairs pertain to the criminal justice system.
[PL 1997, c. 134, §10 (AMD).]

SECTION HISTORY

PL 1975, c. 740, §124 (NEW). PL 1977, c. 671, §§35,36 (AMD). PL 1993, c. 184, §1 (AMD). PL 1997, c. 134, §10 (AMD).

§1355. Organization; staff

1. The Attorney General shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a chair, vice-chair and secretary-treasurer and adopt rules as to the administration of the commission and its affairs. The commission shall maintain such financial records as may be required by the State Auditor.

[PL 2003, c. 143, §13 (AMD).]

2. Within the limits of its budget, the commission shall be authorized to contract and employ staff members, who need not be residents of this State, to assist in the legal research and drafting required in connection with the duties of the commission.
[PL 1975, c. 740, §124 (NEW).]

SECTION HISTORY

PL 1975, c. 740, §124 (NEW). PL 2003, c. 143, §13 (AMD).

§1356. Reimbursement of expenses

The members of the commission shall be compensated according to the provisions of Title 5, chapter 379. [PL 1983, c. 812, §100 (RPR).]

SECTION HISTORY

PL 1975, c. 740, §124 (NEW). PL 1983, c. 812, §100 (RPR).

§1357. Federal funds

The commission shall be authorized on behalf of the State to accept federal funds and may seek the advice and assistance of the Criminal Justice Planning and Assistance Agency in carrying out its duties.
[PL 1975, c. 740, §124 (NEW).]

SECTION HISTORY

PL 1975, c. 740, §124 (NEW).

PART 5

RISK ASSESSMENT OF SEX OFFENDERS

CHAPTER 57

SEX OFFENDER RISK ASSESSMENT ADVISORY COMMISSION

§1401. Establishment

(REPEALED)

SECTION HISTORY

PL 2011, c. 663, §2 (NEW). PL 2015, c. 86, §3 (RP).

§1402. Membership; terms; vacancies

(REPEALED)

SECTION HISTORY

PL 2011, c. 663, §2 (NEW). PL 2015, c. 86, §3 (RP).

§1403. Duties; powers

(REPEALED)

SECTION HISTORY

PL 2011, c. 663, §2 (NEW). PL 2015, c. 86, §3 (RP).

§1404. Organization; meetings

(REPEALED)

SECTION HISTORY

PL 2011, c. 663, §2 (NEW). PL 2015, c. 86, §3 (RP).

§1405. Expenses

(REPEALED)

SECTION HISTORY

PL 2011, c. 663, §2 (NEW). PL 2015, c. 86, §3 (RP).

PART 6

PUNISHMENTS

CHAPTER 61

GENERAL SENTENCING PROVISIONS

§1501. Purposes

The general purposes of the provisions of this Part are to: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Prevent crime. Prevent crime through the deterrent effect of sentences, the rehabilitation of persons and the restraint of individuals when required in the interest of public safety;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Encourage restitution. Encourage restitution in all cases in which the victim can be compensated and other purposes of sentencing can be appropriately served;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Minimize correctional experiences. Minimize correctional experiences that serve to promote further criminality;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Provide notice of nature of sentences that may be imposed. Give fair warning of the nature of the sentences that may be imposed on the conviction of a crime;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Eliminate inequalities in sentences. Eliminate inequalities in sentences that are unrelated to legitimate criminological goals;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Encourage just individualization of sentences. Encourage differentiation among persons with a view to a just individualization of sentences;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Elicit cooperation of individuals through correctional programs. Promote the development of correctional programs that elicit the cooperation of convicted individuals;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Permit sentences based on factors of crime committed. Permit sentences that do not diminish the gravity of offenses, with reference to the factors, among others, of:

A. The age of the victim, particularly of a victim of an advanced age or of a young age who has a reduced ability to self-protect or who suffers more significant harm due to age; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The selection by the person of the victim or of the property that was damaged or otherwise affected by the crime because of the race, color, religion, sex, ancestry, national origin, physical or mental disability, sexual orientation or homelessness of the victim or of the owner or occupant of that property; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Recognize domestic violence and certified batterers' intervention programs. Recognize domestic violence as a serious crime against the individual and society and to recognize batterers' intervention programs certified pursuant to Title 19-A, section 4014 as the most appropriate and effective community intervention in cases involving domestic violence.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1502. Authorized sentences

1. Sentences imposed on individuals and organizations. Every person convicted of a crime must be sentenced in accordance with the provisions of this Part.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Sentencing alternatives for individuals. The court shall sentence an individual convicted of a crime to at least one of the following sentencing alternatives:

A. Unconditional discharge as authorized by chapter 73; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A split sentence of imprisonment with probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A fine, suspended in whole or in part, with, at the court's discretion, probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. A suspended term of imprisonment with probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. A term of imprisonment as authorized by chapter 63; [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. A fine as authorized by chapter 65, subchapter 1, which may be imposed in addition to the sentencing alternatives in paragraphs B, D, E, G, H, J, K and L; [PL 2019, c. 113, Pt. A, §2 (NEW).]

G. A county jail reimbursement fee as authorized by section 1751; [PL 2019, c. 113, Pt. A, §2 (NEW).]

H. A specified number of hours of community service work as authorized by chapter 71; [PL 2019, c. 113, Pt. A, §2 (NEW).]

I. A fine, suspended in whole or in part, with, at the court's discretion, administrative release as authorized by chapter 67, subchapter 2; [PL 2019, c. 113, Pt. A, §2 (NEW).]

J. A suspended term of imprisonment with administrative release as authorized by chapter 67, subchapter 2; [PL 2019, c. 113, Pt. A, §2 (NEW).]

K. A split sentence of imprisonment with administrative release as authorized by chapter 67, subchapter 2; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

L. A term of imprisonment followed by a period of supervised release as authorized by chapter 67, subchapter 3. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Deferred disposition. The court may accept a plea agreement between the attorney for the State and the defendant that provides for an agreed-upon authorized sentencing alternative the imposition of which is deferred in accordance with chapter 67, subchapter 4.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Restitution by individuals. The court may require an individual convicted of a crime to make restitution as authorized by chapter 69. Subject to the limitations of chapter 69, restitution may be imposed as a condition of probation or may be imposed in addition to any other sentencing alternative included within subsection 2 with the exception of an unconditional discharge.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Consideration of sentencing alternative involving fine for individuals. Except when specifically precluded, in choosing the appropriate punishment for an individual convicted of a crime, the court shall consider imposing a sentencing alternative involving a fine either in conjunction with or in lieu of imposing a sentencing alternative involving imprisonment.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Consideration of substance use disorder treatment for individuals convicted of Class D drug offense. In choosing the appropriate punishment for an individual convicted of a Class D drug offense, the court shall consider imposing a sentencing alternative that includes medical and mental health treatment for substance use disorder, when appropriate.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Sentencing alternatives for organizations. The court shall sentence an organization convicted of a crime to at least one of the following sentencing alternatives:

A. Unconditional discharge as authorized by chapter 73; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A fine, suspended in whole or in part, with probation as authorized by chapter 67, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A fine as authorized by chapter 65, subchapter 1; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. A sanction authorized by section 1503, which may be imposed in addition to the sentencing alternatives in paragraphs B, C and E; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. A fine, suspended in whole or in part, with administrative release as authorized by chapter 67, subchapter 2. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Restitution by organizations. The court may require an organization convicted of a crime to make restitution as authorized by chapter 69. Subject to the limitations of chapter 69, restitution may be imposed as a condition of probation or may be imposed in addition to any other sentencing alternative included within subsection 7, with the exception of an unconditional discharge.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Other authority of court, Department of Corrections and jails. The provisions of this chapter do not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty. An appropriate order exercising such authority may be included as part of the judgment of conviction. The provisions of this chapter do not affect the authority of the Department of Corrections or a county jail granted by statute or the authority to transfer individuals from one facility to another by agreement.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1503. Sanctions for organizations

1. Notice to those interested in or affected by conviction. If an organization is convicted of a crime, the court may, in addition to or in lieu of imposing other authorized penalties, sentence the organization to give appropriate publicity to the conviction by notice to the class or classes of persons or sector of the public interested in or affected by the conviction, by advertising in designated areas or by designated media or otherwise as the court may direct. Failure of the organization to provide the notice required by the court may be punishable as contempt of court.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Disqualification from holding office. If a director, trustee or managerial agent of an organization is convicted of a Class A or Class B crime committed on behalf of the organization, the court may include in the sentence an order disqualifying that individual from holding office in the same or another organization for a period not exceeding 5 years, if the court finds that the scope or nature of that individual's illegal actions makes it dangerous or inadvisable for such office to be entrusted to that individual.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Deferred disposition. The court may accept a plea agreement between the attorney for the State and the defendant that provides for an agreed-upon authorized sentencing alternative the imposition of which is deferred in accordance with chapter 67, subchapter 4.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Supplementary proceedings for damages. Prior to the imposition of sentence, the court may direct the Attorney General, a district attorney or any other attorney specially designated by the court to institute supplementary proceedings in the case in which the organization was convicted of the crime to determine, collect and distribute damages to persons in the class that the statute was designed to protect who suffered injuries by reason of the crime, if the court finds that the multiplicity of small claims or other circumstances make restitution by individual suit impractical. Such supplementary proceedings must be pursuant to rules adopted by the Supreme Judicial Court for this purpose. The court in which proceedings authorized by this subsection are commenced may order the State to make available to the attorney appointed to institute such proceedings all documents and investigative reports as are in the State's possession or control and grand jury minutes as are relevant to the proceedings.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1504. Forfeiture of firearms

1. Mandatory forfeiture. As part of every sentence imposed, except as provided in subsection 2, a court shall order that a firearm must be forfeited to the State if:

A. That firearm constitutes the basis for conviction under:

(1) Title 15, section 393;

(2) Section 1105-A, subsection 1, paragraph C-1;

(3) Section 1105-B, subsection 1, paragraph C;

(4) Section 1105-C, subsection 1, paragraph C-1;

(5) Section 1105-D, subsection 1, paragraph B-1;

(6) Section 1105-E, subsection 1, paragraph B; or

(7) Section 1118-A, subsection 1, paragraph B; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The State pleads and proves that the firearm is used by the person or an accomplice during the commission of any murder or Class A, Class B or Class C crime or any Class D crime defined in chapter 9, 11 or 13; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The person, with the approval of the State, consents to the forfeiture of the firearm. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Prohibited forfeiture. Except as provided in subsection 3, a court may not order the forfeiture of a firearm otherwise qualifying for forfeiture under subsection 1 if, prior to the imposition of the person's sentence:

A. For a crime other than murder or any other unlawful homicide crime, another person satisfies the court by a preponderance of the evidence that the other person, at the time of the commission of the crime, had a right to possess the firearm to the exclusion of the convicted person; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For the crime of murder or any other unlawful homicide crime, another person satisfies the court by a preponderance of the evidence that the other person, at the time of the commission of the crime, was the rightful owner from whom the firearm had been stolen and the other person was not a principal or accomplice in the commission of the crime. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Exceptions to prohibited forfeiture. Notwithstanding subsection 2, paragraph A, the court shall order the forfeiture of a firearm even if another person meets the requirements of subsection 2, paragraph A if the person being sentenced was convicted of possessing a firearm in violation of Title 15, section 393 and, prior to the imposition of the person's sentence, the State satisfies the court by a preponderance of the evidence that the other person:

A. Knew or should have known that the convicted person was prohibited from owning, possessing or controlling a firearm under Title 15, section 393; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Intentionally, knowingly or recklessly allowed the convicted person to possess or have under the convicted person's control the firearm. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Disposition of forfeited firearms. The Attorney General shall adopt rules governing the disposition to state, county and municipal agencies of firearms forfeited under this section. A firearm used during a murder or other unlawful homicide crime that does not meet the prohibition from forfeiture under subsection 2, paragraph B must be destroyed by the State.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

CHAPTER 63

SENTENCES OF IMPRISONMENT

§1601. Definite term of imprisonment required

In imposing a sentencing alternative pursuant to section 1502 that includes a term of imprisonment, the court shall set a definite term of imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1602. Sentencing procedure

1. Class A, Class B or Class C crimes. In imposing a sentencing alternative pursuant to section 1502 that includes a term of imprisonment for a Class A, Class B or Class C crime, in setting the appropriate length of that term as well as any unsuspended portion of that term accompanied by a period of probation or administrative release, the court shall employ the following 3-step process.

A. First, the court shall determine a basic term of imprisonment by considering the particular nature and seriousness of the offense as committed by the individual. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Second, the court shall determine the maximum term of imprisonment to be imposed by considering all other relevant sentencing factors, both aggravating and mitigating, appropriate to the case. Relevant sentencing factors include, but are not limited to, the character of the individual, the individual's criminal history, the effect of the offense on the victim and the protection of the public interest. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Third, the court shall determine what portion, if any, of the maximum term of imprisonment under paragraph B should be suspended and, if a suspension order is to be entered, determine the appropriate period of probation or administrative release to accompany that suspension. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Crime of murder. In imposing a sentence pursuant to section 1603 for the crime of murder, the court shall employ only the first 2 steps of the sentencing process as specified in subsection 1, paragraphs A and B.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Imposition of supervised release after imprisonment for violation of gross sexual assault. When the court imposes a period of supervised release after imprisonment for a violation of section 253, subsection 1, paragraph C as required by section 1881, subsection 1 or chooses to impose a period of supervised release after imprisonment for any other violation of section 253, as authorized by section 1881, subsection 2, the court, after employing the first 2 steps of the sentencing process as specified in subsection 1, paragraphs A and B, shall determine the appropriate period of supervised release to follow the maximum term of imprisonment.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1603. Imprisonment for crime of murder

1. Sentence. A person convicted of the crime of murder must be sentenced to imprisonment for life or for any term of years that is not less than 25. The sentence of the court must specify the length of the sentence to be served and must commit the person to the Department of Corrections.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Factors of domestic violence or victim's age or pregnancy. In setting a term of imprisonment pursuant to subsection 1, the court shall assign special weight to each of the following 3 factors as they relate to the sentencing procedure in section 1602, subsection 2:

A. That the victim is a child who had not in fact attained 6 years of age at the time the crime was committed; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. That the victim is a woman whom the convicted individual knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. That the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4 who is a victim of domestic violence committed by the convicted individual. [PL 2019, c. 113, Pt. A, §2 (NEW).]

This subsection may not be construed to restrict a court in setting a term of imprisonment from considering the age of the victim in other circumstances when relevant.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1604. Imprisonment for crimes other than murder

1. Maximum terms of imprisonment dependent on crime class. Unless a different maximum term of imprisonment is specified by statute, the maximum term of imprisonment is as follows:

A. In the case of a Class A crime, 30 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. In the case of a Class B crime, 10 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of a Class C crime, 5 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. In the case of a Class D crime, less than one year; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. In the case of a Class E crime, 6 months. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Exceptions to maximum term of imprisonment based on crime class. Notwithstanding subsection 1:

A. In the case of the Class A crime of aggravated attempted murder, the court shall set a term of imprisonment under section 152-A, subsection 2 of life or a definite period of any term of years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court may set a definite term of imprisonment under section 253-A, subsection 1 for any term of years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of the Class A crime of gross sexual assault against an individual who had not yet attained 12 years of age, the court shall set a definite term of imprisonment under section 253-A, subsection 2 for any term of years. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Mandatory minimum term of imprisonment for crime with use of firearm against an individual. If the State pleads and proves that a Class A, B or C crime was committed with the use of a firearm against an individual, the minimum sentence of imprisonment, which may not be suspended, is as follows:

A. In the case of a Class A crime, 4 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. In the case of a Class B crime, 2 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of a Class C crime, one year. [PL 2019, c. 113, Pt. A, §2 (NEW).]

For purposes of this subsection, the applicable sentencing class is determined in accordance with subsection 5, paragraph A.

This subsection does not apply if the State pleads and proves criminal threatening or attempted criminal threatening, as defined in section 209, or terrorizing or attempted terrorizing, as defined in section 210, subsection 1, paragraph A.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Mandatory minimum sentence of imprisonment for certain drug crimes. For an individual convicted of violating section 1105-A, 1105-B, 1105-C, 1105-D or 1118-A, except as otherwise provided in section 1125, subsections 2 and 3, the court shall impose a minimum sentence of imprisonment, which may not be suspended, as provided in section 1125, subsection 1.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Circumstances elevating class of crime. The following circumstances elevate the class of a crime.

A. If the State pleads and proves that a Class B, C, D or E crime was committed with the use of a dangerous weapon, then the sentencing class for such crime is one class higher than it would otherwise be. In the case of a Class A crime committed with the use of a dangerous weapon, such use must be assigned special weight by the court in exercising its sentencing discretion. This paragraph does not apply to a violation or an attempted violation of section 208, to any other offenses to which use of a dangerous weapon serves as an element or to any offense for which the sentencing class is otherwise elevated because the actor or an accomplice to that actor's or accomplice's knowledge was armed with a firearm or other dangerous weapon. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, or an attempt of any such crime was committed, the individual had 2 or more prior convictions under chapter 9, 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C, or for an attempt of any such crime, or for engaging in substantially similar conduct in another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be.

(1) In the case of a Class A crime, the sentencing class is not elevated, but the prior record must be assigned special weight by the court when imposing a sentence.

(2) Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this paragraph, for violations under chapter 11, the dates of prior convictions may have occurred at any time.

This paragraph does not apply to section 210-A if the prior convictions have already served to elevate the sentencing class under section 210-A, subsection 1, paragraph C or E or any other offense in which prior convictions have already served to elevate the sentencing class. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The sentencing class for a crime that is pled and proved and is subject to elevation pursuant to both paragraphs A and B may be elevated successively pursuant to both of those paragraphs if the crime that is pled and proved contains different class elevation factors. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Special weight required for certain aggravating sentencing factors pleaded and proved. In exercising its sentencing discretion, a court shall assign special weight to the following aggravating sentencing factors pleaded and proved by the State:

A. In the case of Class A gross sexual assault, the aggravating sentencing factor specified in section 253-A, subsection 3, paragraph A; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. In the case of gross sexual assault in violation of section 253, subsection 1 or section 253, subsection 2, the aggravating sentencing factor specified in section 253-A, subsection 3, paragraph B; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In the case of sexual exploitation of a minor, the aggravating sentencing factor specified in section 282, subsection 3. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Special weight required for certain aggravating sentencing factors found present by court. In exercising its sentencing discretion, the court shall assign special weight to the following aggravating sentencing factors if found by the court.

A. In imposing a sentencing alternative involving a term of imprisonment for an individual convicted of aggravated attempted murder, attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a child who had not in fact attained 6 years of age at the time the crime was committed, the court shall assign special weight to this objective fact in determining the basic term of imprisonment as the first step in the sentencing process specified in section 1602, subsection 1, paragraph A. The court shall assign special weight to any subjective victim impact in determining the maximum term of incarceration in the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd and final step in the sentencing process specified in section 1602, subsection 1, paragraph C. This paragraph may not be construed to restrict a court in setting a sentence from considering the age of the victim in other circumstances when relevant. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. In imposing a sentencing alternative involving a term of imprisonment for an individual convicted of aggravated attempted murder, attempted murder, manslaughter, elevated aggravated assault or aggravated assault of a woman who the convicted individual knew or had reasonable cause to believe to be in fact pregnant at the time the crime was committed, the court shall assign special weight to this fact in determining the basic term of imprisonment as the first step in the sentencing process specified in section 1602, subsection 1, paragraph A. The court shall assign special weight to any subjective victim impact in determining the maximum term of incarceration in the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B. The court may not suspend that portion of the maximum term of imprisonment based on objective or subjective victim impact in arriving at the final sentence as the 3rd and final step in the sentencing process specified in section 1602, subsection 1, paragraph C. This paragraph may not be construed to restrict a court in setting a sentence from considering the fact that the victim was pregnant in other circumstances when relevant. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. In imposing a sentencing alternative involving a term of imprisonment for an individual convicted of a Class C or higher crime, the victim of which was at the time of the commission of the crime in fact being stalked by that individual, the court shall assign special weight to this objective fact in determining the basic sentence in the first step of the sentencing process specified in section 1602, subsection 1, paragraph A. The court shall assign special weight to any subjective victim impact caused by the stalking in determining the maximum term of incarceration in the 2nd step in the sentencing process specified in section 1602, subsection 1, paragraph B. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1605. Suspension of all or part of the term of imprisonment imposed

Unless the law that the individual is convicted of violating expressly provides that an authorized term of imprisonment may not be suspended, if the individual is eligible for probation as authorized by chapter 67, subchapter 1 or administrative release as authorized by chapter 67, subchapter 2, a sentencing court may suspend the authorized term of imprisonment in whole or in part and accompany

the suspension with a period of probation, which may not exceed the maximum period of probation authorized for the crime pursuant to section 1804, or a period of administrative release, which may not exceed one year. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1606. General inapplicability of deductions under chapter 81 in setting the term of imprisonment

If a court imposes a sentencing alternative pursuant to section 1502 that includes a term of imprisonment, in setting the appropriate length of that term, as well as an unsuspended portion of that term, if any, the court may not consider the potential impact of deductions under chapter 81 except in the context of a plea agreement in which both parties are recommending to the court a particular disposition under the Maine Rules of Unified Criminal Procedure, Rule 11-A. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1607. Prohibition against imprisonment based on incapacity to pay fine

If a court finds that an individual has met the burden of proving incapacity to pay a fine pursuant to section 1702, subsection 2, the court may not impose a term of imprisonment or any other sentencing alternative involving imprisonment solely for the reason that the individual does not have the present or future capacity to pay the fine. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1608. Multiple sentences of imprisonment

1. Court to state whether sentence is served concurrently or consecutively; consecutive sentence contingent upon certain factors. The court shall state in the sentence of imprisonment whether a sentence must be served concurrently with or consecutively to any other sentence previously imposed or to another sentence imposed on the same date. The sentences must be concurrent except that the court may impose the sentences consecutively after considering the following factors:

A. The convictions are for offenses based on different conduct or arising from different criminal episodes; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The individual was under a previously imposed suspended or unsuspended sentence and was on probation or administrative release, under incarceration or on a release program or period of supervised release at the time the individual committed a subsequent offense; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The individual had been released on bail when that individual committed a subsequent offense, either pending trial of a previously committed offense or pending the appeal of previous conviction; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The seriousness of the criminal conduct involved in either a single criminal episode or in multiple criminal episodes or the seriousness of the criminal record of the individual, or both, require a sentence of imprisonment in excess of the maximum available for the most serious offense. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Limitations on imposition of consecutive terms for crimes in same criminal episode. An individual may not be sentenced to consecutive terms for crimes arising out of the same criminal episode if:

A. One crime is an included crime of the other; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. One crime consists only of a conspiracy, attempt, solicitation or other form of preparation to commit, or facilitation of, the other; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The crimes differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of that conduct; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Inconsistent findings of fact are required to establish the commission of the crimes. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Reason for consecutive sentences must be stated. If the court decides to impose consecutive sentences, the court shall state its reasons for doing so on the record or in the sentences.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. When new sentence is to be served consecutively for individual on probation, administrative release or supervised release. If an individual has been placed on probation, administrative release or supervised release pursuant to a previously imposed sentence and the court determines that the previously imposed sentence and a new sentence must be served consecutively, the court shall revoke probation or administrative release pursuant to section 1812, subsections 5 and 6 or terminate supervised release pursuant to section 1881, subsection 6. The court may order that the sentence that had been suspended be served at the same institution as that which is specified by the new sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Mandatory resentencing following discovery of previously imposed sentence. If it is discovered subsequent to the imposition of a sentence of imprisonment that the sentencing court was unaware of a previously imposed sentence of imprisonment that is not fully discharged, the court shall resentence the individual and shall specify whether the sentences are to be served concurrently or consecutively.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Special requirements for individual previously sentenced in another jurisdiction. If an individual who has been previously sentenced in another jurisdiction has not commenced or completed that sentence, the court may, with consideration of the factors stated in subsection 1, sentence the individual to a term of imprisonment that must be treated as a concurrent sentence from the date of sentencing although the individual is incarcerated in an institution of the other jurisdiction. A concurrent sentence pursuant to this subsection may not be imposed unless the individual being sentenced consents or unless the individual being sentenced executes, at the time of sentencing, a written waiver of extradition for that individual's return to this State, upon completion of the sentence of the other jurisdiction, if any portion of this State's sentence remains unserved. In the absence of an order pursuant to this subsection requiring concurrent sentences, any sentence of imprisonment in this State commences as provided in section 2303, subsections 1 and 2 and runs consecutively to the sentence of the other jurisdiction.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Sentencing subsequent to probation, administrative release or supervised release. A court may not impose a sentence of imprisonment, not wholly suspended, to be served consecutively to any split sentence, or to any sentence including supervised release under chapter 67, subchapter 3, previously imposed or imposed on the same date, if the net result, even with the options made available

by subsections 4 and 8, section 1804, subsection 12, section 1852, subsection 5 and section 1881, subsection 6, would be to have the individual released from physical confinement to be on probation, administrative release or supervised release for the first sentence and thereafter be required to serve an unsuspended term of imprisonment on the 2nd sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Rearrangement of order of sentences. A court imposing a sentence of imprisonment to be served consecutively to any other previously imposed sentence that the individual has not yet commenced, in order to comply with subsection 7, may rearrange the order in which the sentences are to be served.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1609. Nonconcurrent sentence for crime attempted or committed while in execution of term of imprisonment

Notwithstanding section 1608, when an individual subject to an undischarged term of imprisonment is convicted of a crime committed while in execution of any term of imprisonment or of an attempt to commit a crime while in execution of any term of imprisonment, the sentence is not concurrent with any undischarged term of imprisonment. The court may order that any undischarged term of imprisonment be tolled and service of the nonconcurrent sentence commence immediately and the court shall so order if any undischarged term of imprisonment is a split sentence. No portion of the nonconcurrent sentence may be suspended. Any sentence that the convicted individual receives as a result of the conviction of a crime or attempt to commit a crime while in execution of a term of imprisonment must be nonconcurrent with all other sentences. [PL 2019, c. 113, Pt. A, §2 (NEW).]

This section applies to prisoners on supervised community confinement pursuant to Title 34-A, section 3036-A. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1610. Place of imprisonment

1. Class D or Class E crimes. The court shall specify a county jail as the place of imprisonment for an individual convicted of a Class D or Class E crime, except that, if a sentence to a term of imprisonment in a county jail is consecutive to or is to be followed by a sentence to a term of imprisonment in the custody of the Department of Corrections, the court imposing either sentence may order that both be served in the custody of the Department of Corrections. If a court imposes consecutive terms of imprisonment for Class D or Class E crimes and the aggregate length of the terms imposed is one year or more, the court may order that they be served in the custody of the Department of Corrections.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Class A, Class B or Class C crimes. For an individual convicted of a Class A, Class B or Class C crime the court shall:

A. Specify a county jail as the place of imprisonment if the term of imprisonment is 9 months or less; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Commit the individual to the Department of Corrections if the term of imprisonment is more than 9 months. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Intermittent service of county jail sentence. At the request of or with the consent of a convicted individual, the court may order a sentence of imprisonment under this chapter in a county jail, a sentence of probation involving imprisonment in a county jail under chapter 67, subchapter 1 or a sentence of administrative release involving imprisonment in a county jail under chapter 67, subchapter 2 to be served intermittently.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1611. Commitments to Department of Corrections of bound-over juveniles who have not attained 18 years of age at the time of sentencing

A juvenile who has been bound over, pursuant to Title 15, section 3101, subsection 4, who is subsequently, as to the juvenile crime's adult counterpart, convicted and sentenced to a sentencing alternative involving imprisonment and who has not attained 18 years of age at the time of sentence imposition must be committed to a Department of Corrections juvenile correctional facility for an indeterminate period not to extend beyond the juvenile's 18th birthday to serve the term of imprisonment or any unsuspended portion until discharge from the juvenile correctional facility, and once discharged the juvenile must be transferred to a correctional facility in which adult individuals are confined to serve out the remainder of the imprisonment term or unsuspended portion, if any. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1612. Tolling of sentence of noncompliant witness

In the event a witness in a grand jury or criminal proceeding has been ordered confined by a court in the State as a remedial coercive sanction for refusing to comply with an order of the court to testify or provide evidence, and that witness is already in execution of an undischarged term of imprisonment on a sentence in the State, that court may order that the undischarged term of imprisonment be tolled for the duration of the coercive imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

CHAPTER 65

FINES, FEES, ASSESSMENTS AND SURCHARGES

SUBCHAPTER 1

FINES

§1701. Definite fine amount required

In imposing a sentencing alternative pursuant to section 1502 that includes a fine, the court shall set a specific amount of money. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1702. Criteria for imposing sentencing alternative that includes fine

1. Consideration of financial capacity to pay and financial burden. In determining the amount of a fine, unless the fine amount is mandatory, and in determining the method of payment of a fine, the court shall take into account the present and future financial capacity of the convicted person to pay the fine and the nature of the financial burden that payment of the fine will impose on the person or a dependent, if any, of the person.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Burden of proving financial hardship or incapacity to pay. A convicted person who asserts a present or future incapacity to pay a fine or asserts that the fine will cause an excessive financial hardship on the person or on a dependent of the person has the burden of proving the incapacity or excessive hardship by a preponderance of the evidence. On appeal of a sentencing alternative involving a fine, the person has the burden of demonstrating that the incapacity or excessive financial hardship was proven as a matter of law.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1703. Use of fine relative to individuals

Except when specifically precluded, in choosing the appropriate punishment for an individual convicted of a crime, the court shall consider the desirability of imposing a sentencing alternative involving a fine either in conjunction with or in lieu of a sentencing alternative involving imprisonment. A sentencing alternative involving imprisonment may not be imposed by a court solely for the reason that the individual does not have the present or future financial capacity to pay a fine. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1704. Maximum fine amounts authorized for convicted individuals

An individual who has been convicted of a Class A, Class B, Class C, Class D or Class E crime may be sentenced to pay a fine. Except as provided in section 1706 and unless a different maximum fine is specified by statute, the maximum fine that may be imposed by a court on a convicted individual is as follows: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Class A crime. In the case of a Class A crime, $50,000;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Class B crime. In the case of a Class B crime, $20,000;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Class C crime. In the case of a Class C crime, $5,000;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Class D crime. In the case of a Class D crime, $2,000; and
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Class E crime. In the case of a Class E crime, $1,000.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1705. Maximum fine amounts authorized for convicted organizations

An organization that has been convicted of murder or a Class A, Class B, Class C, Class D or Class E crime may be sentenced to pay a fine. Except as provided in section 1706 and unless a different

maximum fine is specified by statute, the maximum fine that may be imposed by a court on a convicted organization is as follows: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Crime of murder. In the case of the crime of murder, any amount;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Class A crime. In the case of a Class A crime, $100,000;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Class B crime. In the case of a Class B crime, $40,000;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Class C crime. In the case of a Class C crime, $20,000; and
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Class D crime or Class E crime. In the case of a Class D crime or a Class E crime, $10,000.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1706. Exceptions to maximum fine amounts

Notwithstanding the maximum fine amounts specified in sections 1704 and 1705, a court may impose fines as provided in this section. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Pecuniary gain. Regardless of the classification of the crime, the court may impose a fine on a convicted person that is in an amount greater than the maximum fine amounts specified in section 1704 for an individual and section 1705 for an organization as long as the fine does not exceed twice the pecuniary gain derived from the crime by the convicted person. The State must plead and prove the amount of money or the value of the property obtained by the person at the time of the commission of the crime. At sentencing, if the court is considering imposing a fine based upon pecuniary gain, it shall hold a hearing in order to determine the pecuniary gain. At the hearing the court shall determine whether any money or property was returned to the victim of the crime or was seized by or surrendered to a lawful authority prior to the time of sentencing, and shall determine the value of any such property. If the court finds that money or property was returned, seized or surrendered, the court shall reduce the pecuniary gain pleaded and proved by the State by the amount of money or the value of property returned, seized or surrendered in order to arrive at the net amount of pecuniary gain upon which a fine may be based pursuant to this subsection. If the court determines that no money or property was returned, seized or surrendered, the court shall base the fine on the amount pleaded and proved by the State.

As used in this subsection, "pecuniary gain" means the amount of money or the value of property at the time of the commission of the crime derived by the person from the commission of the crime.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Fine based on quantity of item illegally possessed by convicted person. Whenever a statute makes the possession of a particular item, whether animate or inanimate, a criminal offense and provides that the amount of the fine depends upon the quantity of the item possessed by the person, if the State pleads and proves the quantity of the item possessed by the person, the fine is as provided for in the statute and is not subject to the maximum limits placed on fines by sections 1704 and 1705.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Fine based on value of scheduled drug at time of offense. Whenever a statute authorizes that the amount of the fine for a specific drug offense be based on the value of the scheduled drug at the time of the offense upon which the conviction is based, if the State pleads and proves the value of the scheduled drug at the time of the offense, the fine may be as provided for in the statute and is not subject to the maximum limits placed on fines by sections 1704 and 1705.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1707. Multiple fines imposed on convicted person

When multiple fines are imposed on a convicted person at the same time or when a fine is imposed on a convicted person already subject to an unpaid or partly unpaid fine, the fines must be cumulative, unless the court specifies that only the highest single fine must be paid in the case of offenses based on the same conduct or arising out of the same criminal episode or for other good cause stated on the record or in the sentences. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1708. Time and method of payment of fines imposed on convicted person

1. Timing of fine payment. If a convicted person is sentenced to pay a fine, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If such permission is not included in the sentence, the fine must be paid immediately to the clerk of the court.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Payment as condition of probation or administrative release. If a convicted person sentenced to pay a fine is also placed on probation or administrative release, the court may make the payment of the fine a condition of probation or administrative release. In the case of probation, the court may order that the fine be paid to the convicted person's probation officer.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1709. Post-conviction relief invalidating conviction; potential return of fine payments

If, in any judicial proceeding following conviction, a court issues a final judgment invalidating the conviction, the judgment may include an order that a fine payment or any part of a fine payment that the convicted person paid pursuant to the sentence for that conviction be returned to that person. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1710. Modification of payment of fine

If a convicted person who has been sentenced to pay a fine is in danger of default, that person shall move the court for a modification of time or method of payment to avoid a default. The court may modify its prior order to allow additional time for payment or to reduce the amount of each installment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1711. Default

1. Return to court upon default. A convicted person who has been sentenced to pay a fine and who fails to pay part or all of that fine is in default and must be returned to court to explain the failure to pay the fine.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Court authorized to conduct default hearing. A convicted person who has defaulted on the payment of a fine and is required to be returned to a court pursuant to a warrant may be returned to the court that issued the warrant or to the court having jurisdiction over the area where the warrant was executed. Either court is authorized to conduct the default hearing pursuant to subsection 4.

For purposes of this subsection, "convicted person" includes an individual or individuals authorized to make disbursements from the assets of a convicted organization.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Reporting of default; motion to revoke probation, revoke administrative release or enforce payment. A probation officer having knowledge of a default in payment of a fine by a convicted person shall report the default to the office of the attorney for the State. An attorney for the State having knowledge of a default in payment of a fine by a convicted person shall report the default to the court. If the fine was a condition of probation, the attorney for the State may file a motion to enforce payment of the fine or, with the written consent of the probation officer, a motion to revoke probation under section 1811. If the fine was a requirement of administrative release, the attorney for the State may file a motion to enforce payment of the fine or a motion to revoke administrative release under section 1855. If the fine was not a condition of probation or a requirement of administrative release, the attorney for the State may file a motion to enforce payment of the fine.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Procedure for motion to enforce payment. Either the attorney for the State or the court may initiate a motion to enforce payment of a fine. Notification for the hearing on the motion must be sent by regular mail to the convicted person's last known address. If the person does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant. A court need not bring a motion to enforce payment of a fine nor notify the person by regular mail of the date of the hearing if at the time of sentence imposition the court's order to pay the fine and accompanying warnings to the person comply with Title 14, section 3141, subsection 3 or 4; in this case, if the person fails to appear as directed by the court's fine order, the court may issue a bench warrant.

A. Unless the person shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment, the court shall find that the default was unexcused and may:

(1) Commit the person to the custody of the sheriff until all or a specified part of the fine is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed 6 months. A person committed for nonpayment of a fine is given credit toward the payment of the fine for each day of confinement that the person is in custody at the rate specified in the court's order, which may not be less than $25 or more than $100 of unpaid fine for each day of confinement. The person is also given credit for each day that the person is detained as the result of an arrest warrant issued pursuant to this section. A person is responsible for paying any fine remaining after receiving credit for confinement and detention. A default on the remaining fine is also governed by this section; or

(2) If the unexcused default relates to a fine imposed for a Class C, Class D or Class E crime, as authorized by this subchapter, order the person to perform a specified number of hours of community service work for the benefit of the State, a county, a municipality, a school administrative district or other public entity, a charitable institution or other entity approved by the court until all or a specified part of the fine is paid. The number of hours of community service work must be specified in the court's order and the person must receive a credit against the unpaid fine at a rate equal to the current hourly minimum wage. A person ordered to perform community service work pursuant to this subparagraph is given credit toward the

payment of the fine for each 8-hour day of community service work performed. The person is also given credit toward the payment of the fine for each day that the person is detained as a result of an arrest warrant issued pursuant to this section at a rate specified in the court's order that is up to $100 of unpaid fine per day of confinement. A person who fails to complete the work in the manner ordered by the court must be returned to the court to explain the failure. A person is responsible for paying any fine remaining after receiving credit for any detention and for community service work performed. A default on the remaining fine is also governed by this section.

The Department of Corrections is not responsible for supervision of community service work performed pursuant to this subparagraph. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If it appears that the default is excusable, the court may give the person additional time for payment, may reduce the amount of each installment or may permit the person to perform community service work at the rate authorized by paragraph A, subparagraph (2), supervised by the sheriff of the county in which the court that assessed the fine is located or by a community confinement monitoring agency with which that sheriff has contracted under Title 30-A, section 1659-A. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. If the court commits a person to the custody of the sheriff for nonpayment of a fine pursuant to paragraph A, subparagraph (1), the court may authorize, at the time of its order only, participation of the person in a project under Title 30-A, section 1606 with the agreement of the sheriff of the county jail where the person is committed. The person must be given credit according to Title 30-A, section 1606, subsection 2. [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The confinement ordered under paragraph A, subparagraph (1) must be nonconcurrent with any judgment of conviction involving a term of imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Levy of execution or other civil measures authorized; consequence of levy of execution. Upon any default, the court may order execution to be levied and may order other measures authorized for the collection of unpaid civil judgments to be taken to collect the unpaid fine. A levy of execution does not discharge a convicted person confined to a county jail or performing community service work under subsection 4 for unexcused default until the full amount of the fine has been collected or credited. [PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Payment of fine imposed on organization; consequence of failure. When a fine is imposed on an organization, the individual or individuals authorized to make disbursements from the assets of the organization shall pay the fine from the organization's assets. Failure to do so may subject the individual or individuals to court action pursuant to this section.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1712. Deposit of certain fines in Maine Military Family Relief Fund

Notwithstanding any provision of law to the contrary, if a person is convicted under section 354, subsection 2, paragraph A of theft by deception due to that person's intentional creation or reinforcement of a false impression that the person is a veteran or a member of the Armed Forces of the United States or a state military force, any fine imposed on that person by the court must be deposited in the Maine Military Family Relief Fund established in Title 37-B, section 158. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

SUBCHAPTER 2

FEES, ASSESSMENTS AND SURCHARGES

§1751. County jail reimbursement fee

1. Assessment of reimbursement fee. When an individual is sentenced to incarceration in a county jail, the sentencing court shall consider and may assess as part of the sentence a jail reimbursement fee, referred to in this section as "the reimbursement fee," to help defray the expenses of the individual's room and board.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Evidence. The court, in determining whether a reimbursement fee as set out in subsection 1 is to be assessed and in establishing the amount of that fee, shall consider evidence relevant to the individual's ability to pay that fee, including, but not limited to, the factors set forth in section 2005, subsection 2, paragraph D, subparagraphs (1) to (5). The court may not consider as evidence the following:

A. Joint ownership, if any, that the individual may have in real property; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Joint ownership, if any, that the individual may have in any assets, earnings or other sources of income; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The income, assets, earnings or other property, both real and personal, owned by the individual's spouse or family. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Amount of reimbursement fee; collection. After considering all relevant evidence on the issue of the individual's ability to pay under subsection 2, the court may enter, as part of its sentence, a reimbursement fee that must be paid by the individual for incarceration in the county jail. The reimbursement fee may not exceed the cost of incarcerating the individual or $80 per day, whichever is less, and must bear a reasonable relationship to the individual's ability to pay. Upon petition by the individual, the amount may be modified to reflect any changes in the financial status of the individual.

Any reimbursement fee assessed must be collected by the county treasurer of the county in which the individual is incarcerated, paid into the treasury of that county and credited to the county responsible for paying for the incarceration of the individual.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Timing of fee payment. If an individual is sentenced to pay a reimbursement fee, the court may allow the individual to pay the reimbursement fee within a specified time or in specified installments. If such permission is not contained in the sentence, the reimbursement fee is payable immediately.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Default. An individual who has been sentenced to pay a reimbursement fee and who fails to pay part or all of that fee is in default and must be returned to court to explain the failure to pay that fee.

A probation officer who knows of a default in payment of a reimbursement fee by an individual shall report the default to the office of the attorney for the State or the attorney for the county. If the reimbursement fee was a condition of probation, the attorney for the State or the attorney for the county may file a motion to enforce payment of the reimbursement fee or, with the written consent of the probation officer, the attorney for the State may file a motion to revoke probation under section 1811. If the reimbursement fee was a requirement of administrative release, the attorney for the State or the

attorney for the county may file a motion to enforce payment of the reimbursement fee or the attorney for the State may file a motion to revoke administrative release under section 1855. If the reimbursement fee was not a condition of probation or a requirement of administrative release, the attorney for the State or the attorney for the county may file a motion to enforce payment of the reimbursement fee.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Motion to enforce payment of reimbursement fee. The attorney for the State, the attorney for the county or the court may initiate a motion to enforce payment of a reimbursement fee. Notification for the hearing on the motion must be sent by regular mail to the individual's last known address. If the individual does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant.

A. Unless the individual shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the individual's part to make a good faith effort to obtain the funds required to make payment, the court shall find that the default was unexcused and may commit the individual to the custody of the sheriff until all or a specified part of the reimbursement fee is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed 6 months. An individual committed for nonpayment of a reimbursement fee is given credit toward the payment of a reimbursement fee for each day of confinement that the individual is in custody, at the rate specified in the court's order, which may not be less than $25 or more than $100 of unpaid reimbursement fee for each day of confinement. The individual is also given credit for each day that the individual has been detained as the result of an arrest warrant issued pursuant to this section. An individual is responsible for paying any reimbursement fee remaining after receiving credit for confinement and detention. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If it appears that the default is excusable, the court may give the individual additional time for payment or may reduce the amount of each installment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The confinement ordered under this subsection must be nonconcurrent with any judgment of conviction involving a term of imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1752. Supervision fee as condition of probation

If a court imposes a sentencing alternative authorized under section 1502 that includes a period of probation, it must attach as a condition of probation that the convicted individual pay, through the Department of Corrections, a supervision fee imposed pursuant to section 1807, subsection 6 for the term of probation. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1753. Electronic monitoring fee and substance testing fee as conditions of probation

If a court imposes a sentencing alternative authorized under section 1502 that includes a period of probation, upon the request of the Department of Corrections, the court shall attach as a condition of probation an electronic monitoring fee, a substance testing fee or both, as governed by section 1807, subsection 7. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1754. Fee for applying to Department of Corrections to temporarily or periodically leave jurisdiction

If a court requires as a condition of probation that the convicted individual remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the convicted individual's probation officer, the Department of Corrections may impose on the individual applying for permission to leave either temporarily or periodically an application fee, as governed by section 1807, subsection 8. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1755. Administrative supervision fee as nonmandatory requirement of administrative release

If a court imposes a suspended sentence with administrative release pursuant to section 1853 and attaches requirements for the term of the administrative release, the court-imposed requirements of administrative release may include an administrative supervision fee, as governed by section 1854, subsection 2, paragraph A. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1756. Administrative supervision fee as nonmandatory requirement of deferred disposition

If an individual consents to a deferred disposition pursuant to section 1901 and a court orders sentencing to be deferred and imposes requirements to be in effect during the period of deferment, the court-imposed deferment requirements may include an administrative supervision fee, as governed by sections 1902 and 1903. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1757. Surcharges and assessments outside the code

In addition to the fees authorized by this subchapter, the court shall impose, as applicable, the following surcharges and assessments. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Surcharge and assessment applicable to all criminal cases. The court shall impose on all persons convicted of a crime:

A. The surcharges for the Government Operations Surcharge Fund and the General Fund authorized under Title 4, section 1057, subsection 2-A; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The assessment for the Victims' Compensation Fund authorized under Title 5, section 3360-I; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The surcharge for the County Jail Operations Fund authorized under Title 34-A, section 1210-D, subsection 5. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Surcharge applicable to violation of animal welfare laws or operating under the influence laws. The court shall impose:

A. The surcharge authorized under Title 17, section 1015 for a violation of Title 17, chapter 42; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The surcharge authorized under Title 29-A, section 2411, subsection 7 for a violation of Title 29-A, section 2411. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1758. Authority to impose fees, surcharges and assessments by Supreme Judicial Court

Nothing in this chapter limits the authority of the Supreme Judicial Court to impose fees, surcharges or assessments by administrative order or rule. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

CHAPTER 67

CONDITIONAL RELEASE

SUBCHAPTER 1

PROBATION

§1801. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Dating partner. "Dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Family or household member. "Family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Victim. "Victim" means:

A. A person who is the victim of a crime; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The immediate family of a victim of a crime if:

(1) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(2) Due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed by law; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A person who has obtained under Title 19-A, section 4007 an active protection order or approved consent agreement against the defendant. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1802. Eligibility for sentencing alternative that includes period of probation

1. General eligibility. A person who has been convicted of a crime may be sentenced to a sentencing alternative under section 1502 that includes a period of probation, unless:

A. The conviction is for murder; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. 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 person 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 person does not have a 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 or a dating partner under chapter 9 or 13 or section 554, 555 or 758;

(3) A Class D crime under Title 5, section 4659, subsection 1; Title 15, section 321, subsection 6; or Title 19-A, section 4011, subsection 1;

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

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

(6) A Class E crime under section 552;

(7) A Class D or Class E crime under section 556, section 853, section 854, excluding subsection 1, paragraph A, subparagraph (1), or section 855;

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

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

(10) A Class D crime under Title 17, section 1031; or

(11) A Class E crime under Title 15, section 1092, subsection 1, paragraph A, if the condition of release violated is specified in Title 15, section 1026, subsection 3, paragraph A, subparagraph (5) or (8) and the underlying crime involved domestic violence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The court sentences the person to a sentencing alternative under section 1502 that includes a period of administrative release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The court sentences the individual to a term of imprisonment followed by a period of supervised release as authorized by subchapter 3; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The statute that the person is convicted of violating expressly provides that the fine or imprisonment penalties it authorizes may not be suspended, in which case the person must be sentenced to the imprisonment and required to pay the fine authorized in that statute; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Eligibility for persons needing supervision or assistance. A person who is eligible for sentence under this subchapter, as provided in subsection 1, may be sentenced to a sentencing alternative that includes a period of probation if the person is in need of the supervision, guidance, assistance or direction that probation can provide.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1803. Definite period of probation required

In imposing a sentencing alternative under section 1502 that includes a period of probation, the court shall set a definite period of probation. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1804. Period of probation; modification; termination and discharge

1. Limit on length of probation. Except as provided in subsections 2, 3, 4, 5 and 6, the period of probation for a person may not exceed:

A. For a Class A crime, 4 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a Class B crime, 3 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. For a Class C crime, 2 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. For a Class D or Class E crime, one year. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Exception to limits when victim is less than 12 years of age. If the State pleads and proves that at the time of the crime the victim had not attained 12 years of age or, in the case of a crime under sections 283 and 284, the victim had not attained 12 years of age at the time the sexually explicit conduct occurred, the period of probation for a person convicted under chapter 11 or 12 may not exceed:

A. For a Class A crime, 18 years; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a Class B crime, 12 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. For a Class C crime, 6 years. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Exception to limits when victim is family or household member. If the State pleads and proves that the person was convicted of committing against a family or household member a crime under chapter 9 or 13 or section 554 or if the person was convicted under chapter 11 or 12 or section 556, the period of probation may not exceed:

A. For a Class A crime, 6 years; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a Class B or Class C crime, 4 years. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Exception to limits when person sentenced as repeat sexual assault offender. The period of probation for a person sentenced as a repeat sexual assault offender pursuant to section 253-A, subsection 1 is any term of years.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Exception to limits when person sentenced for nonsupport of dependents. The period of probation for a person sentenced for the crime of nonsupport of dependents under section 552 is as provided under section 552, subsection 4.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Exception to limits when person ordered to complete batterers' intervention program and pay restitution. If the State pleads and proves that the enumerated Class D or Class E crime was committed by the person against a family or household member and the court orders the person to complete a certified batterers' intervention program as defined in Title 19-A, section 4014, the person may be placed on probation for a period not to exceed 2 years, except that, on motion by the person's probation officer, the person or the court, the term of probation must be terminated by the court when the court determines that the person has:

A. Served at least one year of probation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Completed the certified batterers' intervention program; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Paid in full any victim restitution ordered; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. From the time the period of probation commenced until the motion for termination is heard, met all other conditions of probation. [PL 2019, c. 113, Pt. A, §2 (NEW).]

As used in this subsection, "enumerated Class D or Class E crime" means any Class D crime in chapter 9, any Class D or Class E crime in chapter 11, the Class D crimes described in sections 302 and 506-B and the Class D crimes described in sections 554, 555 and 758.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Modification of probation requirements authorized. During the period of probation specified in the sentence made pursuant to this section, and upon application of the person on probation or the person's probation officer, or upon the court's own motion, the court may, after a hearing upon notice to the probation officer and the person on probation, modify the requirements imposed by the court or a community reparations board, add further requirements authorized by section 1807 or relieve the person on probation of any requirement imposed by the court or a community reparations board that, in the court's opinion, imposes on the person an unreasonable burden. If the person on probation cannot meet a requirement imposed by the court or a community reparations board, the person shall bring a motion under this subsection.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Ex parte motion for modification by probation officer in advance of hearing. Notwithstanding subsection 7, the court may grant, ex parte, a motion brought by the probation officer of the person on probation to add further requirements if the court determines that all reasonable efforts have been made to give written or oral notice to the person on probation and the requirements are immediately necessary to protect the safety of an individual or the public. Any requirements added pursuant to an ex parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court will hold a hearing on the added requirements, is given to the person on probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Conversion of probation to administrative release. Once the period of probation has commenced, on motion of the person on probation or the person's probation officer, or on the court's own motion, the court may at any time convert a period of probation for a Class D or Class E crime or a Class C crime under Title 29-A, section 2557-A to a period of administrative release. A conversion to administrative release may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. The provisions of subchapter 2 apply when probation is converted to administrative release. Conversion to administrative release in accordance with this subsection relieves the person on probation of any obligations imposed by the probation conditions.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

10. Early termination of probation and discharge authorized. Once the period of probation has commenced, on motion of the person on probation or the person's probation officer, or on the court's own motion, the court may at any time terminate a period of probation and discharge the person at any time earlier than that provided in the sentence made pursuant to this section, if warranted by the conduct of the person. A termination and discharge may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. Termination and discharge in accordance with this subsection relieves the person on probation of any obligations imposed by the sentence of probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

11. Justice or judge authorized to hear motions regarding probation. A motion and hearing pursuant to subsection 7, 8, 9 or 10 need not be before the justice or judge who originally imposed probation. Any justice or judge may initiate and hear a motion, and any justice or judge may hear a motion brought by the person on probation or the person's probation officer.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

12. Termination of probation to prevent delay of consecutive term of imprisonment. Any court, in order to comply with section 1608, subsection 7, shall terminate a period of probation that would delay commencement of a consecutive unsuspended term of imprisonment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1805. Partially suspended term of imprisonment with probation or split sentence

1. Determination of date probation begins; revocation; place of imprisonment. Unless prohibited pursuant to section 1802, subsection 1, paragraphs A to F, the court may impose a split sentence by sentencing an individual to a term of imprisonment not to exceed the maximum term authorized for the crime, an initial portion of which is to be served and the remainder of which is to be suspended, and accompany the suspension with a period of probation not to exceed the maximum period authorized for the crime. The period of probation commences on the date the individual is released from the unsuspended portion of the term of imprisonment, unless the court orders it to commence on an earlier date.

A. If the period of probation commences upon release of the individual from an unsuspended portion of the term of imprisonment, the court may revoke probation for any criminal conduct committed during that unsuspended portion of the term of imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. 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. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The court may revoke probation if, during any unsuspended portion of the term of imprisonment, an individual sentenced as a repeat sexual assault offender, pursuant to section 1804, subsection 4, refuses to actively participate in a sex offender treatment program in accordance with the expectations and judgment of the treatment providers, when requested to do so by the Department of Corrections. [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The court may revoke probation if, during an unsuspended portion of the term of imprisonment:

(1) The individual has contact with a victim with whom the individual has been ordered not to have contact as a condition of probation;

(2) In the case of an individual who has been committed to the Department of Corrections, the individual has contact with any victim with whom the individual has been prohibited to have contact by the Department of Corrections; or

(3) In the case of an individual who has been committed to a county or regional jail, the individual has contact with any victim with whom the individual has been prohibited to have contact by the county or regional jail. [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. As to both the suspended and unsuspended portions of the sentence, the place of imprisonment must be as follows.

(1) For a Class D or Class E crime, the court must specify a county jail as the place of imprisonment.

(2) For a Class A, Class B or Class C crime, the court must:

(a) Specify a county jail as the place of imprisonment for any portion of the sentence that is 9 months or less; and

(b) Commit the individual to the Department of Corrections for any portion of the sentence that is more than 9 months. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Applicability to prosecution of crime committed prior to September 23, 1983. In any prosecution for a crime committed prior to September 23, 1983, the court may, with the consent of the defendant, impose a sentence under subsection 1.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1806. Wholly suspended term of imprisonment with probation

Unless prohibited pursuant to section 1802, subsection 1, paragraphs A to F, the court may sentence an individual to a term of imprisonment not to exceed the maximum term authorized for the crime, suspend the entire term of imprisonment and accompany the suspension with a period of probation not to exceed the maximum period authorized for the crime, to commence on the date the individual goes into actual execution of the sentence. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1807. Conditions of probation

1. Purpose of conditions. If the court imposes a sentencing alternative under section 1502 that includes a period of probation, it shall attach conditions of probation, as authorized by this section, as it considers to be reasonable and appropriate to assist the person to lead a law-abiding life, including, without exception, a condition of probation that the person refrain from criminal conduct.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Specific conditions of probation authorized. As a condition of probation, the court in its sentence may require the person to:

A. Support the person's dependents and to meet the person's family responsibilities; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Make restitution pursuant to chapter 69 to each victim of the person's crime, or to the county where the offense is prosecuted if the identity of the victim cannot be ascertained or if the victim voluntarily refuses the restitution. If the court orders as a condition of probation that the person forfeit and pay a specific amount of restitution, that order, as a matter of law, also constitutes the imposition of restitution pursuant to chapter 69 as a sentencing alternative and an additional order regarding restitution is unnecessary; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Pursue and maintain approved employment or an approved occupation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Undergo, as an outpatient, available medical or psychiatric treatment, or to enter and remain, as a voluntary patient, in a specified institution when required for that purpose. Failure to comply with this condition is considered only as a violation of probation and may not, in itself, authorize involuntary treatment or hospitalization. The court may not order and the State may not pay for the person to attend a batterers' intervention program unless the program is certified under Title 19-A, section 4014; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. Pursue a prescribed secular course of study or vocational training; [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. Refrain from frequenting specified places or consorting with specified persons; [PL 2019, c. 113, Pt. A, §2 (NEW).]

G. Refrain from possessing any firearm or other dangerous weapon; [PL 2019, c. 113, Pt. A, §2 (NEW).]

H. Remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the person's probation officer, and to notify the probation officer of any change in the person's address or employment; [PL 2019, c. 113, Pt. A, §2 (NEW).]

I. Refrain from drug use and use or excessive use of alcohol; [PL 2019, c. 113, Pt. A, §2 (NEW).]

J. Report as directed to the court or the person's probation officer, to answer all reasonable inquiries by the probation officer and to permit the probation officer to visit at reasonable times at the person's home or elsewhere; [PL 2019, c. 113, Pt. A, §2 (NEW).]

K. Pay any monetary penalty imposed by the court as part of the sentence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

L. Perform specified work for the benefit of the State, a county, a municipality, a school administrative district, other public entity or a charitable institution; [PL 2019, c. 113, Pt. A, §2 (NEW).]

M. Participate in an electronic monitoring program, if available; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

N. Satisfy any conditions reasonably related to the rehabilitation of the person or the public safety or security. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Opportunity to address court regarding probation conditions; written statement required. The person must be given an opportunity to address the court on the conditions that are proposed to be attached and, after sentence, must be given a written statement setting forth the particular conditions on which the person is released on probation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Findings or explanation required in certain cases when completion of batterers' intervention program is not ordered as a condition of probation. If an individual is convicted of a crime under chapter 9 or 13 or section 758 that the State pleads and proves was committed by the individual against a spouse, domestic partner or sexual partner; a former spouse, domestic partner or sexual partner; a victim with whom the individual is living or lived as a spouse; or a victim who is or was a dating partner of the individual and the court does not order as a condition of probation that the individual complete a batterers' intervention program certified pursuant to Title 19-A, section 4014, the court shall make findings on the record of the court's reasons for not ordering the individual to complete a batterers' intervention program. If a plea agreement submitted to the court in accordance with Rule 11A(b) of the Maine Rules of Unified Criminal Procedure does not contain a provision ordering the individual to complete a batterers' intervention program, the attorney for the State shall indicate, in a writing submitted to the court, the basis for the plea agreement's not including completion of a batterers' intervention program as a condition of probation. For purposes of this subsection, "dating partner" means a victim currently or formerly involved in dating the individual, whether or not the individual and the victim are or were sexual partners. For purposes of this subsection, "domestic partner" means one of 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Condition of probation that includes psychiatric treatment or mental health counseling; notice by court to Department of Health and Human Services. Before imposing any condition of

psychiatric outpatient or inpatient treatment or mental health counseling, the court may request that a report be submitted by an agent of the Department of Health and Human Services who has been designated pursuant to Title 34-B, section 1220 for the purpose of assessing the appropriateness of psychiatric treatment or mental health counseling for the individual and the availability of this treatment or counseling. Whether or not a report is requested, the court shall notify the designated agent of the Department of Health and Human Services when any conditions of probation are imposed that include psychiatric outpatient or inpatient treatment or mental health counseling. This notification must include the name and last known address of the individual placed on probation, the name and address of the attorney of record for that individual and the conditions of probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Supervision fee; determination of amount by court; failure to pay. The court shall attach as a condition of probation that the person pay, through the Department of Corrections, a supervision fee of between $10 and $50 per month, as determined by the court, for the term of probation. If the court does not set a supervision fee, the supervision fee is $10 per month. Notwithstanding the attachment of supervision fee conditions on more than one sentence, a person on probation on concurrent sentences is required to pay only one supervision fee. In determining whether to set an amount higher than $10 per month, the court shall take into account the financial resources of the person and the nature of the burden its payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fee. When a person on probation fails to pay the supervision fee, the court may revoke probation as specified in section 1812, unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fee and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fee has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fee to no less than $10 per month, but may not revoke the requirement to pay the fee unless the remaining period of probation is 30 days or less.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Electronic monitoring and substance testing fees; determination of amount by court; failure to pay; use of fees. Upon the request of the Department of Corrections, the court shall attach as a condition of probation that the person pay, through the department, an electronic monitoring fee, a substance testing fee or both, as determined by the court, for the term of probation. In determining the amount of the fees, the court shall take into account the financial resources of the person and the nature of the burden the payment imposes. A person may not be sentenced to imprisonment without probation solely for the reason the person is not able to pay the fees. When a person on probation fails to pay the fees, the court may revoke probation as specified in section 1812, unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. The court, if it determines that revocation of probation is not warranted, shall issue a judgment for the total amount of the fees and shall issue an order attaching a specified portion of money received by or owed to the person on probation until the total amount of the fees has been paid. If the person makes this showing, the court may allow additional time for payment within the remaining period of probation or reduce the size of the fees, but may not revoke the requirement to pay the fees unless the remaining period of probation is 30 days or less. Fees received from a person on probation must be deposited into the department's adult community corrections account, unless the department has required the person to pay fees directly to a provider of electronic monitoring, substance testing or other services. Funds from the adult community corrections account do not lapse and must be used to defray costs associated with the purchase and operation of electronic monitoring and substance testing programs.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Condition of probation that includes staying within jurisdiction of court; application fee; use of fees. Whenever the court requires as a condition of probation that the person remain within the jurisdiction of the court, unless permission to leave temporarily is granted in writing by the person's probation officer, the Department of Corrections may impose on a person applying for such permission an application fee of $25. The department may impose on a person an additional fee of $25 per month if permission is sought and granted to leave the jurisdiction of the court on a periodic basis. Permission to leave may not be denied or withdrawn solely because the person is not able to pay the application fee or the additional fee. When a person fails to pay a fee imposed under this subsection, the department may refuse to process the application or may withdraw permission to leave if the failure to pay is attributable to the person's willful refusal to pay or to a failure on the person's part to make a good faith effort to obtain the funds required for the payment. Fees received from a person pursuant to this subsection must be deposited into the department's adult community corrections account, which does not lapse, and must be used to defray costs associated with processing the applications, including, but not limited to, the cost of materials, equipment, training for probation officers and administration, and for the department's share of the costs of extraditing persons on probation who are fugitives from justice.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1808. Community reparations boards

1. Persons required to appear before board. If the court imposes a sentencing alternative that includes a period of probation, the court shall require as a condition of probation that the person appear before a community reparations board, referred to in this section as "the board," and abide by any requirement imposed by the board if:

A. The person has been sentenced to a suspended term of imprisonment with probation or a split sentence of imprisonment with probation the initial portion of which must be served in a county jail under section 1805; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The person has not been convicted of a crime under chapter 11 or a crime of domestic violence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The Department of Corrections recommends that appearance before the board be required; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The court finds no circumstance that makes appearance inappropriate. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Duties of person required to appear before board. A person required to appear before a community reparations board shall:

A. Cooperate with the preparation of the intake report to be submitted to the board; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Appear before the board as directed by the person's probation officer; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Cooperate with the board. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Powers of board. The powers of a community reparations board are limited to requiring the person to:

A. Pay restitution in accordance with chapter 69; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Perform community service; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Complete a prescribed course of counseling or education; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Refrain from frequenting specified places or consorting with specified persons; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. Comply with reparative sanctions other than restitution, including, but not limited to, writing an apology to the victim and fulfilling crime-impact education measures; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. Report to the board regarding compliance with the requirements of this subsection. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Time limit on requirement imposed by board. A requirement imposed by a community reparations board may not extend longer than 6 months, except the requirement to pay restitution.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Violation. A person who fails to abide by the requirements of this section commits a violation of probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1809. Commencement of probation revocation proceedings by arrest

1. Authority of probation officer. If a probation officer has probable cause to believe that a person on probation has violated a condition of that person's probation, that officer may arrest the person or cause the person to be arrested for the alleged violation. If the probation officer cannot, with due diligence, locate the person, the officer shall file a written notice of this fact with the court that placed the person on probation. Upon the filing of that written notice, the court shall issue a warrant for the arrest of that person.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Probable cause hearing; timing; evidence. A person arrested pursuant to subsection 1, with or without a warrant, must be given a probable cause hearing as soon as reasonably possible, but not later than on the 5th day after arrest, excluding Saturdays, Sundays and holidays. A probable cause hearing is not given if, within the 5-day period, the person is released from custody or is afforded an opportunity for a court hearing on the alleged violation. A probable cause hearing is not required if the person is charged with or convicted of a new offense and is incarcerated as a result of the pending charge or conviction.

A. Whenever a person arrested pursuant to subsection 1 is entitled to a probable cause hearing pursuant to this subsection, unless the person waives the right to the hearing, that hearing must be held at the initial appearance and may be held in the court located as near to the place where the violation is alleged to have taken place as is reasonable under the circumstances. If it is alleged that the person violated probation because of the commission of a new offense, the probable cause hearing is limited to the issue of identification if probable cause on the new offense has already been found by the District Court or by the Superior Court or the person has been indicted, has waived indictment or has been convicted. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Evidence presented to establish probable cause may include affidavits and other reliable hearsay evidence as permitted by the court. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. If the court determines that there is not probable cause to believe that the person has violated a condition of probation, the court shall order the person's release. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Failure to hold probable cause hearing within required time period. If a probable cause hearing is not held as required by subsection 2 within the time period specified in subsection 2, it is grounds for the person's release on personal recognizance pending further proceedings.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1810. Commencement of probation revocation proceedings by summons

1. Authority of probation officer. If a probation officer has probable cause to believe that a person on probation has violated a condition of probation, that officer may deliver to that person, or cause to be delivered to that person, a summons ordering that person to appear for a court hearing on the alleged violation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Contents of summons; probation officer to file motion for revocation. The summons delivered pursuant to subsection 1 must include the signature of the probation officer; a brief statement of the alleged violation; the time and place of the alleged violation; and the time, place and date the person is to appear in court or a statement that the court will notify the person of the time, place and date to appear. As soon as practical after service of the summons, the probation officer shall file with the court a motion for revocation of probation that sets forth the facts underlying the alleged violation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Initial appearance. A person appearing on a motion to revoke probation pursuant to a summons must be given an initial appearance as provided in section 1811, subsection 4.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Failure to appear. If the person fails to appear in court after having been served with a summons, the court may issue a warrant for the arrest of the person. After arrest, the person must be given a probable cause hearing as provided in section 1809, subsection 2 and an initial appearance as provided in section 1811, subsection 3.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1811. Initial proceedings on probation violation; filing of motion; initial appearance

1. Timing of motion for probation revocation. A motion for probation revocation, which first must be approved by the prosecuting attorney, must be filed within 3 days, excluding Saturdays, Sundays and holidays, of the arrest of a person on probation pursuant to section 1809.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Contents of motion. The motion must set forth the facts underlying the alleged violation and, unless the person is to be given a probable cause hearing at the initial appearance as provided in section 1809, must be accompanied by a copy of the summons delivered to the person.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Timing of initial appearance on motion receipt; copy of motion to person on probation. Upon receipt of a motion for revocation of probation with respect to a person arrested pursuant to section 1809 or section 1810, subsection 4 who is not sooner released, the court shall provide the person

with an initial appearance on the revocation of probation within 5 days after the arrest, excluding Saturdays, Sundays and holidays. A copy of the motion must be furnished to the person prior to or at the initial appearance.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Procedure at initial appearance. At the initial appearance, the court shall advise the person of the contents of the motion, the right to a hearing on the motion, the right to be represented by counsel at a hearing and the right to appointed counsel. If the person cannot afford counsel, the court shall appoint counsel for the person. The court shall ask the person to admit or deny the alleged violation. If the person refuses to admit or deny, a denial must be entered. In the case of a denial, the court shall set the motion for hearing and may commit the person, with or without bail, pending hearing. If the person is committed without bail pending hearing, the date of the hearing must be set no later than 45 days from the date of the initial appearance.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Bail determination. In deciding whether to set bail under this section and in setting the kind and amount of that bail, the court must be guided by the standards of post-conviction bail in Title 15, section 1051, subsection 2-A. Appeal is governed by Title 15, section 1051, subsections 5 and 6. Bail set under this section is also governed by the sureties and other forms of bail provisions in Title 15, chapter 105-A, subchapter 4 and the enforcement provisions in Title 15, chapter 105-A, subchapter 5, articles 1 and 3, including the appeal provisions in Title 15, section 1099-A, subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Effect of failure to meet time limits. Failure to comply with the time limits set forth in this section is not grounds for dismissal of a motion for probation revocation but may be grounds for the release of the person on probation on personal recognizance pending further proceedings.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1812. Court hearing on probation revocation

1. Place of hearing. The hearing on a motion to revoke probation must be held in the court that sentenced the person to probation in either the county or division in which the person resides or is incarcerated, unless the court orders otherwise in the interests of justice. A motion for revocation of probation need not be heard by the justice or judge who originally imposed probation, but may be heard by any justice or judge.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Hearing procedure. If a hearing is held, the person on probation must be given the opportunity to confront and cross-examine witnesses against the person, to present evidence on that person's own behalf and to be represented by counsel. If the person cannot afford counsel, the court shall appoint counsel for the person. Assignment of counsel, to the extent not covered in this subsection, and withdrawal of counsel must be in accordance with the Maine Rules of Unified Criminal Procedure.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Commission of new crime while on probation. When the alleged violation constitutes a crime for which the person on probation has not been convicted, the court may revoke probation if it finds by a preponderance of the evidence that the person committed the crime. If the person is subsequently convicted of the crime, or any other crime or crimes arising out of the same conduct, sentencing is subject to the requirements of section 1608. If concurrent terms of imprisonment are imposed and the terms do not commence on the same date, any time served as a result of the probation revocation must be deducted from the time the person is required to serve as a result of the new conviction.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Failure to comply with requirement of probation. If the alleged violation does not constitute a crime and the court finds by a preponderance of the evidence that the person on probation has inexcusably failed to comply with a requirement imposed as a condition of probation, it may revoke probation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Conviction for new crime while on probation. If a person on probation is convicted of a new crime during the period of probation, the court may sentence that person for the crime and revoke probation. If the person has been sentenced for the new crime and probation revocation proceedings are subsequently commenced, the court that conducts the revocation hearing may revoke probation. Sentencing for the multiple offenses is subject to section 1608. If concurrent terms of imprisonment are imposed and the terms do not commence on the same date, any time served as a result of the new conviction must be deducted from the time the person is required to serve as a result of the probation revocation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Authority of court finding violation of probation. Upon a finding of a violation of probation, the court may vacate all, part or none of the suspension of execution as to imprisonment or fine specified when probation was granted, considering the nature of the violation and the reasons for granting probation. The remaining portion of the sentence for which suspension of execution is not vacated upon the revocation of probation remains suspended and is subject to revocation at a later date. During the service of that portion of the sentence imposed for which the suspension of execution was vacated upon revocation, the running of the period of probation must be interrupted and resumes again upon release. If the court finds a violation of probation but vacates none of the suspended sentence, the running of the period of probation resumes upon entry of that final disposition. The court may nevertheless revoke probation and vacate the suspension of execution as to the remainder of the suspended sentence or a portion thereof for any criminal conduct committed during the service of that portion of the sentence for which the suspension of execution was vacated upon revocation.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Tolling of period of probation; conditions of probation continue in effect. The running of the period of probation is tolled upon either the delivery of the summons, the filing of the written notice with the court that the person cannot be located or the arrest of the person. If the motion is dismissed or withdrawn, or if the court finds no violation of probation, the running of the period of probation is deemed not to have been tolled. The conditions of probation continue in effect during the tolling of the running of the period of probation, and any violation of a condition subjects the person to a revocation of probation pursuant to the provisions of this subchapter.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Disposition agreement by parties in return for admission of probation violation. If the attorney for the State and the attorney for the person on probation or the person on probation reach agreement that, in return for an admission of a violation of probation, the attorney for the State will dismiss other charges or the attorney for the State will not oppose the requested disposition requested by the person or the attorney for the State will recommend a particular disposition or both sides will recommend a particular disposition, and the court at the time of disposition intends to enter a disposition less favorable to the person than that recommended, the court shall on the record:

A. Inform the parties of this intention; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Advise the person personally in open court that the court is not bound by the recommendation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Advise the person that if the person does not withdraw the admission, the disposition of the motion will be less favorable to the person than that recommended; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Give the person the opportunity to withdraw the admission. [PL 2019, c. 113, Pt. A, §2 (NEW).]

The court shall, if possible, inform the person of the intended disposition.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Deduction of time for detention pending revocation proceeding. Whenever a person is detained in any correctional facility, mental health institute or county jail pending a probation revocation proceeding, and not in execution of any other sentence of confinement, that period of detention must be deducted from the time the person is required to serve under that portion of the sentence for which the suspension of execution was vacated as a result of the probation revocation. A person who is simultaneously detained for conduct for which the person receives a consecutive term of imprisonment is not entitled to receive a day-for-day deduction from the consecutive term of imprisonment for the period of simultaneous detention except for any period of detention that is longer than the prior term of imprisonment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

10. Respecification of place of imprisonment following vacation of suspension of sentence. Whenever a previously suspended sentence of imprisonment for a Class A, Class B or Class C crime is vacated, in whole or in part, as the result of a probation revocation, the court must respecify the place of imprisonment for both the portion required to be served and any remaining suspended portion, if necessary, to carry out the intent of section 1805, subsection 1, paragraph E.
[RR 2019, c. 2, Pt. A, §20 (COR).]

11. Effect of vacating suspension while person in execution of unsuspended portion of sentence. 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.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). RR 2019, c. 2, Pt. A, §20 (COR).

§1813. Review

1. Discretionary appeal to Law Court. Review of a revocation of probation pursuant to section 1812 must be by appeal to the Law Court. A person whose probation is revoked may not appeal as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Assignment and withdrawal of counsel. Assignment and withdrawal of counsel for an appeal under this section must be in accordance with the Maine Rules of Unified Criminal Procedure.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1814. Additional conditions in lieu of probation revocation proceedings

Whenever a probation officer has probable cause to believe that a person under the supervision of that probation officer has violated a condition of probation but the violation does not constitute a crime, the probation officer, instead of commencing a probation revocation proceeding under section 1809,

may offer to the person the option of adding one or more of the following conditions to the person's probation: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Participation in public restitution program or treatment program. The person will participate in a public restitution program or treatment program administered through a correctional facility or county jail; or
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Residence at correctional facility or county jail. The person will reside at a correctional facility or county jail for a period of time not to exceed 90 days.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

If the person agrees in writing to the additional conditions under subsection 1 or 2, the conditions must be implemented. If the person does not agree or if the person fails to fulfill the additional conditions to the satisfaction of the probation officer, the probation officer may commence probation revocation proceedings under section 1809 or 1810 for the violation that the probation officer had probable cause to believe occurred. If the person fulfills the additional conditions to the satisfaction of the probation officer, the probation officer shall so notify the person in writing and the probation officer may not commence probation revocation proceedings for the violation that the probation officer had probable cause to believe occurred. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

SUBCHAPTER 2

ADMINISTRATIVE RELEASE

§1851. Eligibility for sentencing alternative that includes period of administrative release; exceptions

The court may sentence a person who has been convicted of a Class D or Class E crime or a Class C crime under Title 29-A, former section 2557, section 2557-A or section 2558 to a sentencing alternative under section 1502, subsection 2, paragraphs I, J and K for an individual and section 1502, subsection 7, paragraph E for an organization, unless: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Sentencing alternative includes probation. The court sentences the person to a sentencing alternative under section 1502 that includes a period of probation; or
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Sentencing alternative diminishes gravity of crime. The court finds that such a sentence would diminish the gravity of the crime for which that person was convicted.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1852. Period of administrative release

1. Time limit. A period of administrative release imposed pursuant to this subchapter may not exceed one year.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Modification of requirements. During the period of administrative release and upon application of a person placed on administrative release or of the attorney for the State or upon the court's own motion, the court, after notice to the attorney for the State and the person and a hearing,

may modify the requirements imposed by the court, add further requirements or release the person of any requirement imposed by the court that, in the court's opinion, imposes on the person an unreasonable burden.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Inability to meet requirement; duty on person to bring motion. During the period of administrative release, if the person cannot meet a requirement of administrative release imposed by the court, the person shall bring a motion pursuant to subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Termination by court. On application of the attorney for the State or of the person placed on administrative release or on the court's own motion, the court may terminate a period of administrative release and discharge the person at any time earlier than that provided in the sentence made pursuant to subsection 1 if warranted by the conduct of the person. The court may not order a termination of the period of administrative release and discharge upon the motion of the person placed on administrative release unless notice of the motion is given to the attorney for the State by the person placed on administrative release. The termination of the period of administrative release and discharge relieves the person placed on administrative release of any obligations imposed by the sentence of administrative release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Termination to prevent delay of consecutive term of imprisonment. The court, in order to comply with section 1608, subsection 7, shall terminate a period of administrative release that would delay commencement of a consecutive unsuspended term of imprisonment.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1853. Suspended sentence with administrative release

1. Suspension of term of imprisonment accompanied by administrative release. The court may sentence a person to a term of imprisonment not to exceed the maximum term authorized for 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, suspend the term of imprisonment in whole or in part and accompany the suspension with a period of administrative release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Suspension of fine accompanied by administrative release. The court may sentence a person to a fine, not to exceed the maximum fine authorized for 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, suspend the fine in whole or in part and accompany the suspension with a period of administrative release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1854. Requirements of administrative release

If the court imposes a suspended sentence with administrative release under section 1853, the court shall attach requirements of administrative release, as authorized by this section, as the court determines to be reasonable and appropriate to help ensure accountability and rehabilitation of the person. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Mandatory requirements. The court-imposed requirements of administrative release must include a requirement that the person refrain from criminal conduct and that the person pay all assessments, surcharges, other fees and costs required by law.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Discretionary requirements. In addition to the requirements in subsection 1, the court in its sentence may require the person:

A. To pay to the appropriate county an administrative supervision fee of not more than $50 per month, as determined by the court, for the term of the administrative release. In determining the amount of the fee, the court shall take into account the financial resources of the person and the nature of the burden its payment imposes. When a person fails to pay the administrative supervision fee, the court may revoke administrative release as provided in sections 1855 and 1856 unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. To pay a fine imposed by the court as part of the sentence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. To make restitution to each victim of the crime imposed by the court as part of the sentence; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. To perform community service work imposed by the court as part of the sentence; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. To satisfy any requirement reasonably related to helping ensure the accountability and rehabilitation of the person. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Opportunity to address court regarding requirements; written statement of requirements to be provided. The person must be given an opportunity to address the court on the requirements that are proposed to be attached pursuant to subsections 1 and 2 and must, after the sentencing, be given a written statement setting forth the specific requirements on which the person is being administratively released.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1855. Commencement of administrative release revocation proceeding

1. Motion to revoke administrative release. 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 file a motion with the court seeking to revoke administrative release. The motion must set forth the facts underlying the alleged violation.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Summons. A summons may be used to order a person who was placed on administrative release to appear on a motion to revoke that person's administrative release.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Initial appearance. A person placed on administrative release appearing on a motion to revoke administrative release pursuant to a summons must be afforded an initial appearance as provided in section 1811, subsection 4.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Failure to appear following service of summons. If a person placed on administrative release fails to appear in court after having been served with a summons, the court may issue a warrant for the arrest of the person. After arrest of the person, the court shall afford the person an initial appearance

as provided in section 1811, subsection 4; if the person is retained in custody, section 1811, subsection 3 also applies.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Arrest of person for violation of requirement of administrative release; copy of motion to be furnished; timing of initial appearance. 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 or request that a warrantless arrest be made of the person pursuant to section 15, subsection 1, paragraph A, subparagraph (15). The court shall provide the person with an initial appearance on the revocation of administrative release within 5 days after arrest unless the person is released before that. A copy of the motion must be furnished to the person prior to or at the initial appearance. The initial appearance is governed by section 1811, subsection 4. Bail is governed by section 1811, subsections 5 and 6.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1856. Court hearing on administrative release revocation

The hearing on a motion to revoke administrative release is governed by section 1812. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1857. Review

Review of a revocation of administrative release pursuant to section 1856 must be by appeal, as provided under section 1813. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

SUBCHAPTER 3

SUPERVISED RELEASE FOR SEX OFFENDERS

§1881. Inclusion of period of supervised release after imprisonment

1. Mandatory imposition of supervised release. If a person is convicted of gross sexual assault with a person who has not yet attained 12 years of age, in violation of section 253, subsection 1, paragraph C, the court, in addition to imposing as part of the sentence a definite term of imprisonment in accordance with section 253-A, subsection 2, shall impose as part of the sentence a period of supervised release of up to life to immediately follow that imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 2314 and must include the best available monitoring technology for the full period of supervised release.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Discretionary imposition of supervised release. If a person is convicted of gross sexual assault in violation of any provision of section 253 other than section 253, subsection 1, paragraph C, the court, if it imposes as part of the sentence a definite term of imprisonment that does not include a period of probation, also may impose as part of the sentence a period of supervised release to

immediately follow that imprisonment. The period of supervised release commences on the date the person is released from confinement pursuant to section 2314.

If a person has been convicted of violating any provision of section 253 other than section 253, subsection 1, paragraph C, the authorized period of supervised release is:

A. Any period of years for a person sentenced as a repeat sexual assault offender pursuant to section 253-A, subsection 1; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. For a person not sentenced under section 253-A, subsection 1 or 2, a period not to exceed 10 years for a Class A violation of section 253 and a period not to exceed 6 years for a Class B or Class C violation of section 253. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Modification of requirements. During the period of supervised release specified in the sentence made pursuant to subsections 1 and 2, and upon application of a person on supervised release or the person's probation officer, or upon the court's own motion, the court, after notice to the probation officer and the person on supervised release and a hearing, may modify the requirements imposed by the court, add further requirements authorized by section 1882 or relieve the person on supervised release of any requirement imposed by the court that, in its opinion, imposes on the person an unreasonable burden.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Ex parte modification of requirements for immediate necessity. Notwithstanding subsection 3, the court may grant, ex parte, a motion brought by the probation officer of the person on supervised release to add further requirements if the court determines that all reasonable efforts have been made to give written or oral notice to the person on supervised release and the requirements are immediately necessary to protect the safety of an individual or the public. Any requirements added pursuant to an ex parte motion do not take effect until written notice of the requirements, along with written notice of the scheduled date, time and place when the court will hold a hearing on the added requirements, is given to the person on supervised release.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Termination by court. On application of the person on supervised release or the person's probation officer, or on the court's own motion, and if warranted by the conduct of the person, the court may terminate a period of supervised release and discharge the person at any time earlier than that provided in the sentence made pursuant to subsections 1 and 2. A termination and discharge may not be ordered unless notice of the motion is given to the probation officer and the attorney for the State. A termination and discharge relieves the person on supervised release of any obligations imposed by the sentence of supervised release.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Termination to prevent delay of consecutive term of imprisonment. The court, in order to comply with section 1608, subsection 7, shall terminate a period of supervised release that would delay commencement of a consecutive unsuspended term of imprisonment.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Revoked period of supervised release to be served in prison. The court may revoke a period of supervised release pursuant to section 1883 for any ground specified in subsection 8. 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, 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.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Grounds for revocation. The court may revoke a period of supervised release for:

A. A violation of supervised release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Criminal conduct committed during the term of imprisonment; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

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. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1882. Conditions of supervised release

If the court imposes a sentence that includes a period of supervised release, it shall set conditions of supervised release. The conditions of release that apply to probation under section 1807 apply to conditions of supervised release. The court may also set conditions of supervised release that it determines to be reasonable and appropriate to manage the person's behavior. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1883. Revocation procedures

The procedures, rights and responsibilities that apply to probation revocation under sections 1809 to 1812, including bail under section 1811, subsections 5 and 6 and appellate review of revocation under section 1813, apply to revocation of supervised release. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

SUBCHAPTER 4

DEFERRED DISPOSITION

§1901. Eligibility for deferred disposition

A person who has pleaded guilty to a Class C, Class D or Class E crime and who consents to a deferred disposition in writing is eligible for a deferred disposition. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1902. Deferred disposition

1. Authority of court to order deferment and impose requirements; administrative supervision fee. Following the acceptance of a plea of guilty for a crime for which a person is eligible for a deferred disposition under section 1901, the court may order sentencing deferred to a date certain or determinable and impose requirements upon the person, to be in effect during the period of deferment, considered by the court to be reasonable and appropriate to assist the person to lead a law-abiding life. The court-imposed deferment requirements must include a requirement that the person refrain from criminal conduct and may include a requirement that the person pay to the appropriate

county an administrative supervision fee of not more than $50 per month, as determined by the court, for the term of the deferment. In determining the amount of the fee, the court shall take into account the financial resources of the person and the nature of the burden its payment imposes. In exchange for the deferred sentencing, the person shall abide by the court-imposed deferment requirements. Unless the court orders otherwise, the requirements are immediately in effect.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Modification of requirements. During the period of deferment and upon application of the person granted deferred disposition pursuant to subsection 1 or of the attorney for the State or upon the court's own motion, the court may, after a hearing upon notice to the attorney for the State and the person, modify the requirements imposed by the court, add further requirements or relieve the person of any requirement imposed by the court that, in the court's opinion, imposes an unreasonable burden on the person.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Inability to meet requirement; duty on person to bring motion. During the period of deferment, if the person cannot meet a deferment requirement imposed by the court, the person shall bring a motion pursuant to subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Determination of date of conviction; bail. For purposes of a deferred disposition, a person is deemed to have been convicted when the court imposes the sentence. Notwithstanding Title 15, chapter 105-A, subchapter 3, prior to sentence imposition, preconviction bail applies to the person.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Preferred disposition in prosecution for possession of schedule W drug. A deferred disposition is a preferred disposition in a prosecution for possession of schedule W drugs under section 1107-A, subsection 1, paragraphs B and B-1.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Preferred disposition in prosecution for engaging in prostitution. A deferred disposition is a preferred disposition in a prosecution for engaging in prostitution under section 853-A, subsection 1, paragraph B.
[RR 2019, c. 2, Pt. A, §21 (COR).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2019, c. 316, §2 (AMD). RR 2019, c. 2, Pt. A, §21 (COR).

§1903. Court hearing as to final disposition

1. Final disposition following period of deferment. Unless a court hearing is sooner held under subsection 3, and except as provided in subsection 2, at the conclusion of the period of deferment, after notice, a person who was granted deferred disposition pursuant to section 1902 shall return to court for a hearing on final disposition. If the person demonstrates by a preponderance of the evidence that the person has complied with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty and consented to in writing at the time sentencing was deferred or as amended by agreement of the parties in writing prior to sentencing, unless the attorney for the State, prior to sentence imposition, moves the court to allow the person to withdraw the plea of guilty. Except over the objection of the person, the court shall grant the State's motion. If the court grants the State's motion, the attorney for the State shall dismiss the pending charging instrument with prejudice. If the court finds that the person has inexcusably failed to comply with the court-imposed deferment requirements, the court shall impose a sentencing alternative authorized for the crime to which the person pled guilty.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Consensual withdrawal of guilty plea by parties. Notwithstanding subsection 1, if at the conclusion of the period of deferment and prior to sentence imposition the attorney for the State in writing moves the court to allow the person to withdraw the plea of guilty and the person in writing agrees to such withdrawal, the court may, without a hearing on final disposition and in the absence of the person, grant the attorney for the State's motion and allow the person to withdraw the plea. Following such court action, the attorney for the State shall dismiss the pending charging instrument with prejudice.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Violation of deferment requirement. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1902 has violated a court-imposed deferment requirement, the attorney for the State may move the court to terminate the remainder of the period of deferment and impose sentence. Following notice and hearing, if the attorney for the State proves by a preponderance of the evidence that the person has inexcusably failed to comply with a court-imposed deferment requirement, the court may continue the running of the period of deferment with the requirements unchanged, modify the requirements, add further requirements or terminate the running of the period of deferment and impose a sentencing alternative authorized for the crime to which the person pled guilty. When a person fails to pay an administrative supervision fee imposed under section 1902, subsection 1, the court may terminate the running of the period of deferment and impose sentence unless the person shows that failure to pay was not attributable to a willful refusal to pay or to a failure on that person's part to make a good faith effort to obtain the funds required for the payment. If the court finds that the person has not inexcusably failed to comply with a court-imposed deferment requirement, the court may order that the running of the period of deferment continue or, after notice and hearing, take any other action permitted under this subchapter.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Place of hearing. A hearing under this section or section 1902 must be held in the court that ordered the deferred disposition. The hearing need not be conducted by the justice or judge who originally ordered the deferred disposition.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Rights of person at hearing. The person at a hearing under this section or section 1902 must be given the opportunity to confront and cross-examine witnesses against the person, to present evidence on that person's own behalf and to be represented by counsel. If the person who was granted deferred disposition pursuant to section 1902 cannot afford counsel, the court shall appoint counsel for the person. Assignment of counsel and withdrawal of counsel must be in accordance with the Maine Rules of Unified Criminal Procedure.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Summons to appear at hearing; failure to appear. A summons may be used to order a person who was granted deferred disposition pursuant to section 1902 to appear for a hearing under this section. If the person fails to appear after having been served with a summons, the court may issue a warrant for the arrest of the person.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Authority of attorney for State regarding violation of condition of deferment. If during the period of deferment the attorney for the State has probable cause to believe that a person who was granted deferred disposition pursuant to section 1902 has violated a court-imposed deferment requirement, the attorney for the State may apply for a warrant for the arrest of the person or request that a warrantless arrest be made of the person pursuant to section 15, subsection 1, paragraph A, subparagraph (17).
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§1904. Limited review by appeal

A person may not attack the legality of a deferred disposition, including a final disposition, except that a person who has been determined by a court to have inexcusably failed to comply with a court-imposed deferment requirement and thereafter has been sentenced to an alternative authorized for the crime may appeal to the Law Court, but not as of right. The time for taking the appeal and the manner and any conditions for the taking of the appeal are as the Supreme Judicial Court provides by rule. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

CHAPTER 69

RESTITUTION

§2001. Purpose

The Legislature finds and declares that the victims of crimes often suffer losses through no fault of their own and for which there is no compensation. It also finds that repayment, in whole or in part, by the offender to the victim of the offender's crime can operate to rehabilitate the offender in certain instances. It is the purpose of this chapter to encourage the compensation of victims by the person most responsible for the loss incurred by the victim, the offender. Restitution by the offender can serve to reinforce the offender's sense of responsibility for the offense, to provide the offender the opportunity to pay the offender's debt to society and to the offender's victim in a constructive manner and to ease the burden of the victim as a result of the criminal conduct. [PL 2019, c. 113, Pt. A, §2 (NEW).]

The Legislature recognizes that a crime is an offense against society as a whole, not only against the victim of the crime, and that restitution for victims is therefore ancillary to the central objectives of the criminal law. It intends restitution to be applied only when other purposes of sentencing can be appropriately served. [PL 2019, c. 113, Pt. A, §2 (NEW).]

The Legislature does not intend the use of restitution to result in preferential treatment for offenders with substantial financial resources. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2002. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Collateral source. "Collateral source" means a source of benefits or advantages for economic loss resulting from a crime, which the victim has received, or which is readily available to the victim from:

A. The Government of the United States or any agency thereof, a state or any of its political subdivisions or an instrumentality of 2 or more states unless the law providing for the benefits or advantages makes them excess or secondary to benefits under this chapter; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Social security, Medicare and Medicaid; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Workers' compensation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Wage continuation programs of any employer; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. Proceeds of a contract of insurance payable to the victim for loss that the victim sustained because of the criminal conduct; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. A contract providing prepaid hospital and other health care services or benefits for disability. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Dependent. "Dependent" means an individual who is wholly or partially dependent upon the victim for care or support and includes a child of the victim born after the victim's death.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Economic loss. "Economic loss" includes economic detriment consisting of environmental clean-up expense, property loss, allowable expense, work loss, replacement services loss and, if injury causes death, dependent's economic loss and dependent's replacement services loss. Noneconomic detriment is not loss. Economic detriment is loss although caused by pain and suffering or physical impairment. "Economic loss" includes expenses of an emergency response by any public agency and critical investigation expenses.

A. "Allowable expense" means reasonable charges incurred for reasonably needed products, services and accommodations, including those for medical care, rehabilitation, rehabilitative occupational training, counseling services and other remedial treatment and care, and nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing. The term includes reasonable and customary charges incurred for expenses in any way related to funeral, cremation and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semiprivate accommodations, unless other accommodations are medically required. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. "Critical investigation expense" means a necessary expense incurred by a government or by a victim while investigating or prosecuting suspected criminal conduct. "Critical investigation expense" is limited to the cost of an audit or other financial analysis when that analysis is necessary to determine whether and to what extent a victim has suffered financial harm from criminal conduct by an employee or other person in a position of trust and the cost of analysis of suspected illegal drugs. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. "Dependent's economic loss" means loss after a decedent's death of contributions of things of economic value to the decedent's dependents, not including services they would have received from the decedent if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of decedent's death. [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. "Dependent's replacement loss" means loss reasonably incurred by dependents after a decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if the decedent had not suffered the fatal injury, less expenses of the dependents avoided by reason of the decedent's death and not subtracted in calculating dependent's economic loss. [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. "Environmental clean-up expense" means any reasonable expense incurred for products and services needed to clean up any harm or damage caused to the environment, including any harm or damage caused by chemicals; to restore the environment to its previous condition prior to any harm or damage; and to properly dispose of chemicals and other materials, including those used in the manufacture of scheduled drugs in violation of chapter 45. [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, including a response to a suspected unlawful methamphetamine laboratory under section 1124, but only includes those costs directly arising because of the response to the particular incident. Reasonable costs include the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, as well as the compensation for the personnel, including trained laboratory personnel, responding to the incident. "Public agency" means the State or any county, municipality, district or public authority located, in whole or in part, within this State that provides or may provide laboratory services or police, firefighting, ambulance or other emergency services. [PL 2019, c. 113, Pt. A, §2 (NEW).]

G. "Property loss" means the value of property taken from the victim, or of property destroyed or otherwise broken or harmed. A property loss includes the value of taxes or other obligations due to the government that have not been paid. "Property loss" also includes, in cases involving a violation of chapter 45, the value of money or other consideration given or offered in exchange for scheduled drugs by a law enforcement officer or another at the direction of a law enforcement officer that are not, in fact, recovered by the State at the time of sentencing, regardless of whether other money or items of value are sought, acquired or forfeited pursuant to Title 15, chapter 517. In cases involving a violation of chapter 45, the court must make a finding that the property loss is specifically related to that case. [PL 2019, c. 113, Pt. A, §2 (NEW).]

H. "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of the injured person or the injured person's family, if the injured person had not been injured. [PL 2019, c. 113, Pt. A, §2 (NEW).]

I. "Work loss" means loss of income from work the injured person would have performed if the injured person had not been injured and expenses reasonably incurred by the injured person in obtaining services in lieu of those the injured person would have performed for income, reduced by any income for substitute work actually performed by the injured person or by income the injured person would have earned in available appropriate substitute work the injured person was capable of performing but unreasonably failed to undertake. For a victim of a human trafficking offense as defined in Title 5, section 4701, subsection 1, paragraph C, "work loss" includes pay or benefits unfairly or illegally withheld from the victim by the offender or any unfair labor agreement under Title 26, section 629, as defined by rules adopted by the Department of Labor. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Noneconomic detriment. "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment and other nonpecuniary damage.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Offender. "Offender" means an individual or an organization convicted of a crime.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Restitution. "Restitution" means:

A. Monetary reimbursement, in whole or in part, for economic loss; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Work or service provided to a victim for economic loss; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Any combination of service or monetary reimbursement by an offender to the victim of the offender's crime or to other authorized claimants, either directly or indirectly. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Victim. "Victim" means a government that suffers economic loss or a person who suffers personal injury, death or economic loss as a result of a crime or the good faith effort of any person to prevent a crime.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2003. Mandatory consideration of restitution

1. Inquiry as to victim's financial loss. The court shall, whenever practicable, inquire of a prosecutor, law enforcement officer or victim with respect to the extent of the victim's financial loss and shall order restitution when appropriate. The order for restitution must designate the amount of restitution to be paid and the person or persons to whom the restitution must be paid.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Reasons for not imposing restitution. In any case where the court determines that restitution should not be imposed in accordance with the criteria set forth in section 2005, the court shall state in open court or in writing the reasons for not imposing restitution.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Restitution required. In any prosecution for a crime committed prior to the effective date of this chapter, or any amendment to this chapter, the court may, with the consent of the defendant, require the defendant to make restitution in accordance with this chapter as amended.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2004. Authorized claimants

Restitution may be authorized for: [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Victim. The victim or a dependent of a deceased victim;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. County. The county where the offense was prosecuted if the victim voluntarily refuses restitution or if the identity of the victim cannot be ascertained;
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Person providing recovery. Any person, firm, organization, corporation or government entity that has provided recovery to the victim as a collateral source, but only to the extent that such recovery was actually made; and
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Person acting on behalf of victim. Any person legally authorized to act on behalf of the victim.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2005. Criteria for restitution

1. Restitution authorized. Restitution may be authorized, in whole or in part, as compensation for economic loss. In determining the amount of restitution authorized, the following must be considered:

A. The contributory misconduct of the victim; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Failure to report the crime to a law enforcement officer within 72 hours after its occurrence, without good cause for failure to report within that time; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The present and future financial capacity of the offender to pay restitution. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Restitution not authorized. Restitution is not authorized:

A. To a victim without that victim's consent; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. To a victim who is an accomplice of the offender; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. To a victim who has otherwise been compensated from a collateral source, but economic loss in excess of the collateral compensation may be authorized; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. When the amount and method of payment of monetary restitution or the performance of service restitution creates an excessive financial hardship on the offender or dependent of the offender. In making this determination, all relevant factors must be considered, including, but not limited to, the following:

(1) The number of the offender's dependents;

(2) The minimum living expenses of the offender and the offender's dependents;

(3) The special needs of the offender and the offender's dependents, including necessary travel expense to and from work;

(4) The offender's present income and potential future earning capacity; and

(5) The offender's resources, from whatever source. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Exception. The provisions of subsection 2, paragraph D do not apply to an offender that is an organization.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Burdens of proof. An offender who asserts a present or future incapacity to pay restitution has the burden of proving the incapacity by a preponderance of the evidence. On appeal of a restitution order, the offender has the burden of demonstrating that the incapacity was proven as a matter of law.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2006. Time and method of restitution

When restitution is authorized, and the offender is not committed to the Department of Corrections and does not receive a sentence that includes a period of probation, the time and method of payment or of the performance of the services must be specified by the court and monetary compensation may be ordered paid to the office of the prosecuting attorney who is prosecuting the case or to the clerk of the court. If the offender is committed to the Department of Corrections or receives a sentence that includes a period of probation, monetary compensation must be paid to the Department of Corrections and the time and method of payment must be determined by the Department of Corrections during the term of commitment or the period of probation unless at the time of sentencing the court has specified the time and method of payment. Once any term of commitment to the Department of Corrections or period of probation is completed and if the restitution ordered has not been paid in full, the offender is subject to the provisions of section 2011 and, in the event of a default, the provisions of section 2015. The state

agency receiving the restitution shall deposit any money received in the account maintained by the Treasurer of State for deposit of state agency funds, from which funds are daily transferred to an investment account and invested. Interest accrued on that money is the property of and accrues to the State for deposit in the General Fund. The agency receiving the restitution shall make the disbursement to the victim or other authorized claimant as soon as possible after the agency receives the money. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2007. Income withholding order

1. Instructions for employer. When restitution is required of an offender who will not be commencing service of a period of institutional confinement, who does not receive a sentence that includes a period of probation and who is employed, the court shall, at the time of ordering restitution, enter a separate order for income withholding. When restitution is required of an offender who receives a sentence that includes a period of probation and who is employed, upon application of the offender's probation officer, the court shall enter a separate order for income withholding. The withholding order must direct the employer to deduct from all income due and payable to the offender an amount determined pursuant to section 2006 to meet the offender's restitution obligation. The withholding order must include an instruction to the employer that upon receipt of a copy of the withholding order the employer shall:

A. Immediately begin to withhold the offender's income when the offender is usually paid; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Send each amount withheld to the agency to which restitution has been ordered to be paid at the address set forth in the order within 7 business days of the withholding; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Identify each amount sent to the agency by indicating the court's docket number. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Term of order. The income withholding order is effective as long as the order for restitution upon which it is based is effective, including after a defendant is no longer in the custody or under the supervision of the Department of Corrections and has not paid the restitution in full as described in section 2011, or until further order of the court.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2008. Deceased victims

An offender's obligation to pay restitution is not affected by the death of the victim to whom the restitution is due. The money collected as restitution must be forwarded to the estate of the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2009. Victim unable to be located

If the location of a victim cannot, with due diligence, be ascertained, the money collected as restitution must be forwarded to the Treasurer of State to be handled as unclaimed property. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2010. Joint and several order

If the victim's financial loss has been caused by more than one offender, the order must designate that the restitution is to be paid on a joint and several basis, unless the court specifically determines that one defendant should not equally share the burden. The agency collecting restitution pursuant to a joint and several order may, after the full amount of restitution has been collected and disbursed to the victim, continue to collect payments from an offender who has not paid an equal share of the restitution and may disburse the money collected to any other offender who has paid more than an equal share of the restitution. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2011. Former Department of Corrections' clients owing restitution

An offender is responsible for paying any restitution outstanding at the time the term of commitment to the Department of Corrections or period of probation is completed. An offender who has complied with the time and method of payment of monetary compensation determined by the Department of Corrections during the period of probation shall continue to make payments to the Department of Corrections in accordance with that payment schedule unless modified by the court pursuant to section 2014 or 2015. An offender who has not complied with the time and method of payment of monetary compensation determined by the Department of Corrections during the period of probation must be returned to the court for further disposition pursuant to section 2015. An offender who is unconditionally released and discharged from institutional confinement with the Department of Corrections upon the expiration of the sentence must, upon application of the office of the attorney for the State, be returned to the court for specification by the court of the time and method of payment of monetary compensation, which may be ordered paid to the office of the attorney for the State who prosecuted the case or to the clerk of the court. Prior to the offender's release and discharge, the Department of Corrections shall provide the office of the attorney for the State who prosecuted the case written notice as to the amount of restitution outstanding. An income withholding order issued pursuant to section 2007 remains effective and enforceable until the restitution is paid in full, even after an offender is no longer in the custody or under the supervision of the Department of Corrections. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2012. Restitution deducted from judgment in civil action

Any restitution ordered and paid must be deducted from the amount of any judgment awarded in a civil action brought by the victim against the offender based on the same facts. If the restitution ordered and made was work restitution, the reasonable value of the services may be deducted from any such judgment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2013. Post-conviction relief

If, in any judicial proceeding following conviction, a court issues a final judgment invalidating the conviction, the judgment may include an order that any or all of a restitution payment that the convicted person paid pursuant to the sentence for that conviction be returned to the convicted person. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2014. Modification of restitution

A convicted person who cannot make restitution payments in the manner ordered by the court or determined by the Department of Corrections pursuant to section 2006 shall move the court for a modification of the time or method of payment or service to avoid a default. The court may modify its prior order or the determination of the Department of Corrections to reduce the amount of each installment or to allow additional time for payment or service. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2015. Default

1. Return to court. An offender who has been sentenced to make restitution and has defaulted in payment or service thereof must be returned to court to explain the failure to pay or perform the service.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Reports. A probation officer having knowledge of a default in restitution by an offender shall report the default to the office of the attorney for the State. An attorney for the State having knowledge of a default in restitution by an offender shall report the default to the court. If the restitution was a condition of probation, the attorney for the State may file a motion to enforce payment of restitution or, with the written consent of the probation officer, a motion to revoke probation under section 1811. If the restitution was not a condition of probation, the attorney for the State may file a motion to enforce payment of restitution.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Motion to enforce payment of restitution. Either the attorney for the State or the court may initiate a motion to enforce payment of restitution. Notification for the hearing on the motion must be sent by regular mail to the offender's last known address. If the offender does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant.

A. Unless the offender shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the offender's part to make a good-faith effort to obtain the funds required to make payment, the court shall find that the default was unexcused and may commit the offender to the custody of the sheriff until all or a specified part of the restitution is paid. The length of confinement in a county jail for unexcused default must be specified in the court's order and may not exceed one day for every $5 of unpaid restitution or 6 months, whichever is shorter. An offender committed for nonpayment of restitution is given credit toward the payment of restitution for each day of confinement that the offender is in custody, at the rate specified in the court's order. The offender is also given credit for each day that the offender has been detained as the result of an arrest warrant issued pursuant to this section. An offender is responsible for paying any restitution remaining after receiving credit for confinement and detention. A default on the remaining restitution is also governed by this section. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If it appears that the default is excusable, the court may give the offender additional time for payment or may reduce the amount of each installment. [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The confinement ordered under this subsection must be nonconcurrent with any judgment of conviction involving a term of imprisonment. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Forfeiture of bail. When an offender who has been sentenced to make restitution and has defaulted in payment or service of the restitution is declared in forfeiture of bail in the proceeding brought under this section pursuant to Title 15, section 1094, the obligation and sureties of the defendant must be enforced pursuant to Title 15, section 1094 and the district attorney shall use the proceeds to satisfy the offender's restitution obligation. Any proceeds from the forfeited bail remaining after the offender's restitution obligation has been satisfied must be used in accordance with Title 15, section 224-A, subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Collection. Upon any default, execution may be levied and other measures authorized for the collection of unpaid civil judgments may be taken to collect the unpaid restitution. A levy of execution does not discharge an offender confined to a county jail under subsection 3 for unexcused default until the full amount of the restitution has been collected.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Organizations. When restitution is imposed on an organization, the person or persons authorized to make disbursements from the assets of the organization shall pay the restitution from the organization's assets. Failure to do so may subject the person or persons to court action pursuant to this section.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Payments. Payments made pursuant to this section must be made to the same agency to which the restitution was required to be paid under section 2006 or section 2011, except that if the offender is no longer in the custody or under the supervision of the Department of Corrections the payments must be made to the office of the attorney for the State who prosecuted the case or the clerk of the court, as ordered by the court.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2016. Work program release; restitution

1. Work program; payment of restitution and fines. A prisoner who has been ordered to pay restitution or fines may not be released pursuant to a work program administered by the Department of Corrections under Title 34-A, section 3035, or a sheriff under Title 30-A, section 1605, or participate in an industry program under Title 34-A, section 1403, subsection 9 or any other program administered by the Department of Corrections or a sheriff by which a prisoner is able to generate money, unless the prisoner consents to pay at least 25% of the prisoner's gross weekly wages or other money generated to the victim or the court until such time as full restitution has been made or the fine is paid in full. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's wages or other money generated agreed to as payment of restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court that portion of the prisoner's wages or other money generated agreed to as payment of fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution cannot be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Payment of restitution or fines from other sources. A prisoner, other than one addressed by subsection 1, who receives money, from any source, shall pay 25% of that money to any victim or the court if the court has ordered that restitution or a fine be paid. The chief administrative officer of the correctional facility in which the prisoner is incarcerated shall collect and disburse to the victim or victims that portion of the prisoner's money ordered as restitution. The chief administrative officer of the correctional facility where the prisoner is incarcerated shall also collect and disburse to the court

that portion of the prisoner's money ordered as fines after the restitution is paid in full. If the victim or victims ordered by the court to receive restitution cannot be located, the correctional facility shall inform the court that ordered restitution. The court shall determine the distribution of these funds. Money received by the prisoner and directly deposited into a telephone call account established by the Department of Corrections for the sole purpose of paying for use of the department's client telephone system is not subject to this subsection, except that 25% of any money received by the prisoner and transferred from the telephone call account to the department's general client account at the time of the prisoner's discharge or transfer to supervised community confinement must be collected and disbursed as provided in this subsection.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Restitution; absolute. The requirements imposed on a prisoner by this section to pay restitution and fines during incarceration apply regardless of whether:

A. The court order to pay restitution or fines constitutes a sentence or is imposed as a condition of probation; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Payment has been stayed in the court order; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The court has specified a time and method of payment pursuant to section 1708, subsection 1 or section 2006; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The person's incarceration resulted from a revocation of probation. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2017. Waiver of issue of excessiveness

If a defendant at the time of sentencing has consented to the imposition by the sentencing court of a specific amount of restitution, the defendant is thereafter precluded from seeking to attack the legality or propriety of the amount of restitution ordered if that amount does not exceed the specific amount consented to by the defendant. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2018. Restitution for benefit of victim

When compensation is awarded from the Victims' Compensation Fund pursuant to Title 5, chapter 316-A or the Victims' Property Compensation Fund pursuant to Title 5, chapter 316-C, the amount of any restitution ordered to be paid to or for the benefit of the victim and collected as part of a sentence imposed must be paid by the agency collecting the restitution in an amount not to exceed the amount of the payments from the fund, directly to the fund if, when added to the payments from the fund, the restitution exceeds the victim's actual loss. [PL 2019, c. 549, §6 (AMD).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW). PL 2019, c. 549, §6 (AMD).

§2019. Civil remedy upon default

Upon the request of the attorney for the State or a person entitled to restitution under an order of restitution, the clerk shall enter the order of restitution in the same manner as a judgment in a civil action. When entered under this section, the order of restitution is deemed to be a money judgment. Upon default, the order to make restitution is enforceable in accordance with Title 14, chapter 502 by any person entitled to restitution under the order. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

CHAPTER 71

COMMUNITY SERVICE WORK

§2031. Sentencing alternative of community service work; authorization

The court may sentence an individual convicted of a Class D or Class E crime to perform a specified number of hours of community service work for the benefit of the State, a county, a municipality, a school administrative unit or other public entity, a charitable institution or another entity approved by the court. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2032. Modification of community service work

An individual who has been sentenced to perform a specified number of hours of community service work pursuant to section 2031 and who is in danger of default for failing to complete the work in the manner ordered by the court shall move the court for a modification to avoid the default. The court may modify its prior order as to the time for completion, the nature of the work to be performed or the entity for which the work is to be performed. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2033. Default

1. Return to court. An individual who has been sentenced to perform community service work pursuant to section 2031 and fails to complete the specified number of hours of work in the manner ordered by the court must be returned to the court to explain the failure.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Report of failure. If the entity for which the court orders an individual to perform community service work pursuant to section 2031 knows that the individual has failed to meet the requirements of the order, the entity may report the failure to the attorney for the State or to the court. If the attorney for the State knows of the default, the attorney for the State shall report the default to the court.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Motion to enforce sentence or motion to seek coercive or punitive sanction. Either the attorney for the State or the court may initiate a motion to enforce completion of community service work ordered by the court pursuant to section 2031 or may initiate a motion seeking a coercive or punitive sanction for the default as specified in subsection 4, paragraphs C and D. The court shall send notification of the hearing on the motion by regular mail to the individual's last known address. If the individual does not appear for the hearing after proper notification has been sent, the court may issue a bench warrant.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Hearing on motion. At a hearing under subsection 3, unless the individual who has been sentenced to perform community service work shows by a preponderance of the evidence that the default was not attributable to an intentional or knowing refusal to obey the court's order or to a failure on the individual's part to make a good faith effort to comply with the order, the court shall find that the default was unexcused and may:

A. Reaffirm the requirement that the individual complete the community service work as previously ordered; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Modify the original order as to:

(1) When the community service work is to be performed;

(2) The entity for whom the work is to be performed; or

(3) The nature of the work to be performed; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. Impose a coercive sanction by committing the individual to the custody of a sheriff until such time as the individual demonstrates to the court a willingness to comply with the order. The commitment imposed pursuant to this paragraph may not exceed 6 months; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Impose a punitive sanction by committing the individual to the custody of a sheriff. The commitment imposed pursuant to this paragraph may not exceed 6 months. [PL 2019, c. 113, Pt. A, §2 (NEW).]

The provisions of Rule 66 of the Maine Rules of Civil Procedure do not apply to a hearing on a motion seeking a coercive or punitive sanction imposed pursuant to paragraph C or D.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Commitment order; tolling of undischarged term; no deductions. If the court orders an individual committed as a coercive sanction pursuant to subsection 4, paragraph C:

A. The court may order that an undischarged term of imprisonment be tolled for the duration of the coercive commitment if the individual is in execution of the undischarged term of imprisonment on a sentence in this State; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The individual may not receive a deduction for time detained as a result of an arrest made under subsection 3 or a deduction based on conduct or participation in programs established or approved by the administrator of the jail to which the individual is committed during the coercive commitment. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Commitment order; nonconcurrent with any term of imprisonment; deduction only for time detained. If the court orders an individual committed as a punitive sanction pursuant to subsection 4, paragraph D:

A. The committal must not be concurrent with another term of imprisonment in this State imposed pursuant to a judgment of conviction; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The individual must receive a day-for-day deduction for time detained as a result of an arrest made under subsection 3; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The individual may not receive a deduction based on conduct or participation in programs established or approved by the administrator of the jail to which the individual is committed during the commitment imposed as a punitive sanction. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Right to counsel. At a hearing under subsection 3 in which the State seeks a coercive or punitive sanction for a default, the individual has the right to be represented by counsel. If the individual cannot afford counsel, the court shall assign counsel for the individual unless the court concludes that in the event of a finding of an unexcused default the options in subsection 4, paragraphs C and D will not be employed by the court.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Excused default. If at a hearing under subsection 3 the court finds the default to be excused, the court may leave its prior order in place or modify the order as to the time for completion, the nature of the work to be performed or the entity for which the work is to be performed.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Supervision of work. The Department of Corrections is not responsible for supervision of community service work imposed pursuant to section 2031.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

CHAPTER 73

UNCONDITIONAL DISCHARGE

§2051. Sentencing alternative of unconditional discharge

The court shall sentence a convicted person to an unconditional discharge if the court determines that no other authorized sentencing alternative is appropriate punishment and the convicted person is:
[PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Eligible for probation. Eligible for the imposition of a sentencing alternative that includes a period of probation under section 1802, subsection 1; or
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Ineligible for probation due to excluded Class D or Class E crime. Ineligible for the imposition of a sentencing alternative that includes a period of probation under section 1802, subsection 1 solely by operation of section 1802, subsection 1, paragraph B.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

A sentence of unconditional discharge is for all purposes a final judgment of conviction. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

CHAPTER 75

VICTIMS' RIGHTS

§2101. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Crime. "Crime" means a criminal offense in which, as defined, there is a victim.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Victim. "Victim" means:

A. A person who is the victim of a crime; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The immediate family of a victim of a crime if:

(1) The underlying crime is one of domestic violence or sexual assault or one in which the family suffered serious physical trauma or serious financial loss; or

(2) Due to death, age, physical or mental disease, disorder or defect, the victim is unable to participate as allowed under this chapter.

As used in this paragraph, "immediate family" means the spouse, domestic partner, parent, child, sibling, stepchild or stepparent of the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2102. Victims to be notified

1. Information provided to victim. When practicable, the attorney for the State shall make a good faith effort to inform each victim of the following:

A. The details of a plea agreement, including a deferred disposition, before it is submitted to the court; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The right to comment on a plea agreement, including a deferred disposition, pursuant to section 2103; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The proposed dismissal or filing of an indictment, information or complaint pursuant to the Maine Rules of Unified Criminal Procedure, Rule 48, before that action is taken; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The time and place of the trial; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The time and place of sentencing; [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The right to participate at sentencing pursuant to section 2104; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

G. The right to comment on the proposed early termination of probation, early termination of administrative release or conversion of probation to administrative release, pursuant to section 2105. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Pamphlets. When providing notice under subsection 1, the attorney for the State shall offer to provide the victim with a pamphlet containing this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101. In addition, the attorney for the State, as part of any victim and witness support program that attorney administers under Title 30-A, section 460, shall provide the victim with a pamphlet outlining in everyday language the provisions set out in this chapter, Title 5, chapter 316-A and Title 15, sections 812 and 6101. The attorney for the State may use the pamphlet printed and distributed by the Department of Corrections or another pamphlet that meets the criteria in this section.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2103. Plea agreement procedure

When a plea agreement is submitted to the court pursuant to the Maine Rules of Unified Criminal Procedure, Rule 11A(b), the attorney for the State shall disclose to the court any and all attempts made to notify each victim of the plea agreement and any objection to the plea agreement by a victim. A victim who is present in court at the submission of the plea may address the court at that time. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2104. Sentencing procedure

1. Participation by victim. The victim must be provided the opportunity to participate at sentencing by:

A. Making an oral statement in open court; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Submitting a written statement to the court either directly or through the attorney for the State. A written statement must be made part of the record. [PL 2019, c. 113, Pt. A, §2 (NEW).]

An attorney for the victim may submit a written statement or make an oral statement on the victim's behalf.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Consideration of victim's statements. The court shall consider any statement made under subsection 1, along with all other appropriate factors, in determining the sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Participation by interested person. An interested person, including, but not limited to, a member of the victim's family who is not immediate family of the victim, a close friend of the victim, a community member and other interested person, does not have a right to participate at sentencing. Participation by such interested persons is a matter for the court's discretion in determining what information to consider when sentencing.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2105. Termination or conversion procedure

When the attorney for the State receives notice of a motion seeking early termination of probation or early termination of administrative release or seeking to convert probation to administrative release, the attorney for the State shall disclose to the court any attempts made to notify each victim of the motion to terminate or convert and any objection to the motion by a victim. If a hearing is held on the motion by the court and the victim is present in court, the victim may address the court at that time.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2106. Notification of defendant's release or escape

Upon complying with subsection 1, a victim of a crime of murder or of a Class A, Class B or Class C crime or of a Class D crime under chapters 9, 11 and 12 for which the defendant is committed to the Department of Corrections or to a county jail or is committed to the custody of the Commissioner of Health and Human Services either under Title 15, section 103 after having been found not criminally responsible by reason of insanity or under Title 15, section 101-D after having been found incompetent to stand trial must receive notification of the defendant's unconditional release and discharge from institutional confinement upon the expiration of the sentence or upon release from commitment under Title 15, section 101-D or upon discharge under Title 15, section 104-A; must receive notification of any conditional release of the defendant from institutional confinement, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or similar program, administrative release or release under Title 15, section 104-A; and must receive notification of the defendant's escape from the Department of Corrections, the custody of the Commissioner of Health and Human Services or the county jail to which the defendant is committed. For purposes of this section, "victim" also includes a

person who has obtained under Title 19-A, section 4007 an active protection order or approved consent agreement against the defendant. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Request for notification. A victim who wishes to receive notification must file a written request for that notification of the defendant's release or escape under this section with the office of the attorney for the State. The attorney for the State shall forward this request form to the Department of Corrections or to the state mental health institute or to the county jail to which that defendant is committed. Notwithstanding this subsection, a victim who wishes to receive notification regarding a defendant who is committed to the Department of Corrections may file a request for notification of the defendant's release directly with the Department of Corrections.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Notification of victim. The Department of Corrections or the state mental health institute or the county jail to which the defendant is committed shall keep the victim's written request for a notification under subsection 1 in the file of the defendant and shall notify the victim by mail of any impending release as soon as the release date is set or, if the defendant has escaped, by the quickest means reasonably practicable. This notification must be mailed to the address provided in the request or any subsequent address provided by the victim.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Contents of notification upon release. If the defendant is being released, the notification required by this section must contain:

A. The name of the defendant; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The nature of the release authorized, whether it is a conditional release, including probation, supervised release for sex offenders, parole, furlough, work release, funeral or deathbed visit, supervised community confinement, home release monitoring or a similar program, administrative release or release under Title 15, section 104-A, or an unconditional release and discharge upon release from commitment under Title 15, section 101-D or upon the expiration of a sentence or upon discharge under Title 15, section 104-A; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The anticipated date of the defendant's release from institutional confinement and any date on which the defendant must return to institutional confinement, if applicable; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. The geographic area to which the defendant's release is limited, if any; [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. The address at which the defendant will reside; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. The address at which the defendant will work, if applicable. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Contents of notification upon escape. If the defendant has escaped, the notice required by this section must contain the name of the defendant, the manner of escape, the place from which the defendant escaped and the date of the escape.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Termination of notification requirement. The notification requirement under this section ends when:

A. Notification has been provided of an unconditional release or discharge upon the expiration of the sentence or upon release under Title 15, section 101-D or upon discharge under Title 15, section 104-A; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The victim has filed a written request for a notification under subsection 1 with the Department of Corrections or the state mental health institute or the county jail to which the defendant is committed asking that no further notification be given. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Liability. Neither the failure to perform the requirements of this chapter nor compliance with this chapter subjects the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the institution for the care and treatment for persons with mental illness to which the defendant is committed by the Commissioner of Health and Human Services or the residential program that provides care and treatment for persons who have intellectual disabilities or autism to which the defendant is committed by the Commissioner of Health and Human Services or the county jail or the employees or officers of the attorney for the State, the Commissioner of Corrections, the Department of Corrections, the Commissioner of Health and Human Services, the state mental health institution for the care and treatment for persons with mental illness to which the defendant is committed by the Commissioner of Health and Human Services or the residential program that provides care and treatment for persons who have intellectual disabilities or autism to which the defendant is committed by the Commissioner of Health and Human Services or the county jail to liability in a civil action.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2107. Notification of defendant's release on preconviction bail

1. Contact information for victim of certain crimes. In the case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the arresting law enforcement officer shall obtain the victim's contact information and provide that information to the jail to which the defendant is delivered.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Notification of victim of certain crimes by jail or law enforcement agency. In a case of an alleged crime involving domestic violence, sexual assault under chapter 11 or stalking, the jail to which the defendant is delivered shall notify the victim of the defendant's release on preconviction bail under Title 15, chapter 105-A as soon as possible but no later than one hour after the defendant's release. If the defendant is released on preconviction bail before being delivered to a jail, the arresting law enforcement agency shall notify the victim as provided in this section.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Method of notification. Notification under subsection 2 must be made by a telephone call either directly to the victim or as provided in subsection 5. In the event that the jail has not succeeded in contacting the victim after the jail has exercised due diligence in attempting to contact the victim, notification of the defendant's release must be made to the law enforcement agency that investigated the report of domestic violence, sexual assault under chapter 11 or stalking. That law enforcement agency shall make a reasonable attempt to notify the victim of the defendant's release on preconviction bail.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Request by victim to not be notified. Notwithstanding subsection 2, a victim of an alleged crime described in subsection 1 may request in writing that the jail or arresting law enforcement agency not notify the victim of the defendant's release on preconviction bail.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Notification based on age of victim. Notification under this section to an adult victim must be made to the victim. Notification to a minor victim must be made to an adult who is the victim's

parent or legal guardian or, if a parent or legal guardian is not available, to another immediate family member of the victim unless the jail or arresting law enforcement agency reasonably believes that it is in the best interest of the minor victim to be notified directly.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Liability. Neither the failure to perform the requirements of this section nor compliance with this section subjects the State, the arresting law enforcement agency, the jail to which the defendant was delivered, the Department of Corrections or officers or employees of the law enforcement agency, jail or Department of Corrections to liability in a civil action.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

For purposes of this section, "crime involving domestic violence" has the same meaning as in Title 15, section 1003, subsection 3-A and includes those crimes under section 152, subsection 1, paragraph A, section 208 and section 208-B when the victim is a family or household member as defined in Title 19-A, section 4002, subsection 4. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2108. Confidentiality of victim records

1. General rule of confidentiality. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined must be kept confidential, subject to disclosure only as authorized in this section.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Disclosure to law enforcement or victims' service agency. Records that pertain to a victim's current address or location or that contain information from which a victim's current address or location could be determined may be disclosed only to:

A. A state agency if necessary to carry out the statutory duties of that agency; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A criminal justice agency if necessary to carry out the administration of criminal justice or the administration of juvenile justice; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A victims' service agency with a written agreement with a criminal justice agency to provide services as a victim advocate; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. A person or agency upon request of the victim. [PL 2019, c. 113, Pt. A, §2 (NEW).]
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Limited disclosure as part of bail condition or court order. A bail commissioner, judge, justice, court clerk, law enforcement officer or attorney for the State may disclose a victim's current address or location to the defendant or accused person, or the attorney or authorized agent of the defendant or accused person, as part of a bail condition or court order restricting contact with the victim only when it is clear that the defendant already knows the victim's current address or location or when the victim requests that such bail condition or court order be issued and the victim requests that the current address or location be specified.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Limited disclosure pursuant to discovery. An attorney for the State may withhold the current address or location of a victim from the defendant, or the attorney or authorized agent of the defendant, if the attorney for the State has a good faith belief that such disclosure may compromise the safety of the victim.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Disclosure of victim's request for notice prohibited. In no case may a victim's request for notification of the defendant's release under section 2106 be disclosed except to those employees of the agency to which the defendant is committed and the office of the attorney for the State with which the request was filed in order for those persons to perform their official duties under this chapter.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2109. Certain communications by victims confidential

The following communications are privileged from disclosure. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. To sexual assault counselor. Communications by a victim, as described in Title 16, section 53-A, subsection 2, to a sexual assault counselor, as defined in Title 16, section 53-A, subsection 1, paragraph B, are privileged from disclosure as provided in Title 16, section 53-A, subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. To advocate. Communications by a victim, as defined in Title 16, section 53-B, subsection 1, paragraph B, to an advocate, as defined in Title 16, section 53-B, subsection 1, paragraph A, are privileged from disclosure as provided in Title 16, section 53-B, subsection 2, subject to exceptions in Title 16, section 53-B, subsection 3.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. To victim witness advocate or victim witness coordinator. Communications by a victim, as defined in Title 16, section 53-C, subsection 1, paragraph B, to a victim witness advocate or a victim witness coordinator, as defined in Title 16, section 53-C, subsection 1, paragraph C, are privileged from disclosure as provided in Title 16, section 53-C, subsection 2, subject to exceptions in Title 16, section 53-C, subsection 3.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

PART 7

ADMINISTRATION OF IMPOSED SENTENCES OF IMPRISONMENT

CHAPTER 81

ADMINISTRATION OF IMPOSED SENTENCES OF IMPRISONMENT

§2301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2019, c. 113, Pt. A, §2 (NEW).]

1. Family or household member. "Family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Jail. "Jail" means a county or regional jail.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Sentence of imprisonment. "Sentence of imprisonment" means:

A. A term of imprisonment, none of which is suspended; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. An unsuspended portion of a split sentence of imprisonment either before or after revocation of probation or administrative release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. An unsuspended portion of a wholly suspended term of imprisonment with probation or with administrative release after revocation of that probation or administrative release; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Any court-ordered time in the custody of the Department of Corrections after revocation of a period of supervised release. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2302. General provisions

1. Deduction for each day in execution of sentence of imprisonment. An individual committed to the custody of the Department of Corrections or a jail whose sentence of imprisonment has commenced pursuant to section 2303 must receive a day-for-day deduction from that individual's sentence of imprisonment for each day the individual is in execution of that sentence. This day-for-day deduction may not be withdrawn. Prior to the day-for-day deduction being given, the sentence must first be reduced by any deduction for time detained to which the individual is entitled pursuant to section 2305.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Start of consecutive sentence. A consecutive sentence may not begin until the sentence involving imprisonment that the consecutive sentence immediately follows in time has been fully served.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Application of deduction for concurrent sentences. While an individual is in execution of concurrent sentences pursuant to subsection 1, a day-for-day deduction must be accorded on all the sentences simultaneously.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Application of deduction for consecutive sentences. While an individual is in execution of a consecutive sentence pursuant to subsection 1, a day-for-day deduction may be accorded on only one sentence at a time.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2303. Commencement of sentence of imprisonment

1. Commitment to Department of Corrections. The sentence of imprisonment of an individual committed to the custody of the Department of Corrections to serve that sentence commences on the date on which that individual is received into the correctional facility designated as the initial place of confinement by the Commissioner of Corrections or the commissioner's designee pursuant to section 2304. That day is counted as the first full day of the sentence.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Commitment to specified jail. The sentence of imprisonment of an individual committed to the custody of a jail to serve that sentence commences on the date on which that individual is received into the jail specified in the sentence. That day is counted as the first full day of the sentence if the term of imprisonment, or the unsuspended portion of the term of imprisonment, is over 30 days; otherwise,

a deduction is accorded only for the portion of that day for which the individual is actually in execution of the sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Commitment with concurrent sentence of imprisonment from another jurisdiction. When an individual is sentenced to a concurrent sentence of imprisonment as authorized by section 1608, subsection 6, the provisions of this chapter apply and must be administered by the chief administrative officer of this State's correctional facility when the individual is committed to the custody of the Department of Corrections or by the jail administrator of a jail in this State when the individual is committed to the custody of the jail. If the individual is released from imprisonment under the sentence of the other jurisdiction prior to the termination of this State's sentence, the individual shall serve the remainder of this State's sentence at the appropriate correctional facility or jail in this State.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2304. Notification of commitment to Department of Corrections

At the time of sentencing, the sheriff or the sheriff's designee shall notify the Commissioner of Corrections or the commissioner's designee that an individual has been committed to the Department of Corrections and shall inquire as to the correctional facility to which the individual must be delivered by the sheriff or the sheriff's designee. The commissioner or the commissioner's designee has complete discretion to determine the initial place of confinement. In making this determination, the commissioner or the commissioner's designee shall review all relevant information, including any available mental health information. The commissioner or the commissioner's designee shall immediately inform the sheriff or the sheriff's designee of the location of the correctional facility to which the individual must be transported. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2305. Deductions from sentence of imprisonment for time detained

1. Deductions for detention permitted. An individual sentenced to imprisonment who has been detained for the conduct for which that sentence is imposed while awaiting trial, during trial, post-trial while awaiting sentencing or post-sentencing prior to the date on which the sentence commenced either to await transportation to the place of imprisonment specified or pursuant to court order, and not in execution of any other sentence of confinement, must receive a day-for-day deduction from the total term of imprisonment required under that sentence if that individual is detained in:

A. This State in a correctional facility, mental health institute or jail or in any local lockup; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. Another jurisdiction in a federal, state or county institution, local lockup or similar facility, including any detention resulting from being a fugitive from justice, as defined by Title 15, section 201, subsection 4, unless the individual has simultaneously been detained for non-Maine conduct. [PL 2019, c. 113, Pt. A, §2 (NEW).]

For the purpose of calculating the day-for-day deduction specified by this subsection, "day" means 24 hours, except that for an individual who commits a crime on or after October 15, 2011, who has been detained for the conduct for which the individual is sentenced to a term of imprisonment of 96 hours or less, any portion of a day detained short of 24 hours must also be deducted from the total term of imprisonment required under that sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Deductions for detention not permitted. An individual who, in addition to being detained pursuant to subsection 1, has been simultaneously detained for conduct for which the individual is sentenced to a consecutive sentence may not receive a day-for-day deduction from the consecutive sentence for the period of simultaneous detention except for any period of detention that is longer than the total term of imprisonment required under the sentence to be served prior to the consecutive sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Timing of application of deductions. The total term required under a sentence of imprisonment is reduced by the total deduction under this section prior to applying any of the other deductions specified in this chapter or in Title 30-A, section 1606.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Additional deduction when warranted for crime committed on or after August 1, 2004. An individual may receive a deduction of up to 2 days per calendar month in addition to the day-for-day deduction provided pursuant to subsection 1 if:

A. The individual commits a crime on or after August 1, 2004 and is sentenced to a term of imprisonment for that crime; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The individual is entitled to a day-for-day deduction pursuant to subsection 1 and the individual's conduct during that period of detention is such that the additional deduction is determined to be warranted in the discretion of the chief administrative officer of the facility in which the individual has been detained. [PL 2019, c. 113, Pt. A, §2 (NEW).]

Deductions under this subsection must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 15 days	up to 1
16 to 31 days	up to 2

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Deduction for detention may not be withdrawn. A deduction for detention to which the individual is entitled may not be withdrawn.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Transporter's duty to provide statement of time detained. The sheriff or the sheriff's designee shall furnish to the administrator of the facility to which the individual is being delivered and the attorney for the State, within 30 days of delivery, a statement showing the length of that detention. The administrator shall use the statement furnished to determine the day-for-day deduction to which the individual is entitled pursuant to subsections 1 and 4, if any, unless, within 15 days of its receipt, the attorney for the State furnishes a revised statement to the administrator.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2306. Deductions for time detained; special circumstances

1. Time detained for failure to appear for a default hearing. An individual arrested and detained for failing to appear for a hearing to explain nonpayment of a fine, a county jail reimbursement fee or restitution or to explain nonperformance of community service work who subsequently is committed by the court conducting the default hearing to the custody of a jail for an unexcused default must receive a day-for-day deduction from the length of the confinement specified in the court's order for each day detained as a result of the arrest pursuant to section 1711, subsection 4; section 1751, subsection 6; section 2015, subsection 3; or section 2033, subsection 6.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Arrest and detention pending probation or administrative release revocation proceeding. If an individual is detained in a correctional facility, mental health institute or jail pending a probation or administrative release revocation proceeding and is not in execution of any other sentence of confinement, that period of detention must be deducted from the time the individual is required to serve under that portion of the sentence for which the suspension of execution was vacated as a result of the probation or administrative release revocation. An individual who is simultaneously detained for conduct for which the individual receives a consecutive term of imprisonment is not entitled to receive a day-for-day deduction from the consecutive term of imprisonment for the period of simultaneous detention except for any period of detention that is longer than the term of imprisonment to be served prior to the consecutive sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2307. Discretionary deductions for individual who commits crime on or after August 1, 2004, except for certain listed crimes

1. Application. The provisions of this section apply only to an individual who, on or after August 1, 2004, commits a crime and is sentenced to imprisonment for that crime, except for the following:

A. Murder; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A crime listed under chapter 11; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A crime listed under section 556; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. A crime listed under section 854, excluding subsection 1, paragraph A, subparagraph (1); [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. A crime listed under chapter 12; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. A crime against a family or household member listed under chapter 9 or 13 or section 506-B, 554, 555 or 758. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Discretionary 4 days per month deduction based on conduct. For an individual who commits a crime and is subsequently in the custody of the Department of Corrections or a jail in execution of a sentence of imprisonment for that crime, up to 4 days per calendar month may be deducted from that sentence, calculated from the date of its commencement, if that individual's conduct during that calendar month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the correctional facility or the jail administrator.

Deductions under this subsection must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 7 days	up to 1
8 to 15 days	up to 2
16 to 23 days	up to 3
24 to 31 days	up to 4

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Discretionary 3 days per month deduction based on fulfillment of assigned responsibilities for individual in custody of Department of Corrections or jail. For an individual who commits a crime and is subsequently in the custody of the Department of Corrections or a jail in execution of a sentence of imprisonment for that crime, in addition to the days of deduction provided for in subsection 2, up to 3 days per calendar month may be deducted from that sentence, calculated from the date of its commencement, if that individual's fulfillment of responsibilities assigned in the individual's transition plan for work, education or rehabilitation programs during that calendar month is such that the

deduction is determined to be warranted in the discretion of the chief administrative officer of the correctional facility or the jail administrator.

Deductions under this subsection must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 10 days	up to 1
11 to 20 days	up to 2
21 to 31 days	up to 3

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Discretionary 2 days per month deduction based on fulfillment of assigned responsibilities only for individual in custody of Department of Corrections. For an individual who commits a crime and is subsequently in the custody of the Department of Corrections in execution of a sentence of imprisonment for that crime, in addition to the days of deduction provided for in subsections 2 and 3, up to 2 days per calendar month also may be deducted from that sentence, calculated from the date of its commencement, if that individual's fulfillment of responsibilities assigned in the individual's transition plan for community work, education or rehabilitation programs during that calendar month is such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the correctional facility.

Deductions under this subsection must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 15 days	up to 1
16 to 31 days	up to 2

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Withdrawal of discretionary deductions. Any portion of the time deducted from the sentence of an individual pursuant to subsection 2, 3 or 4 may be withdrawn by the chief administrative officer of the correctional facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section or by the jail administrator in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the individual up to and including the maximum authorized for that sentence.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Restoration of discretionary deductions. The chief administrative officer of the correctional facility or the jail administrator may restore any portion of deductions that have been withdrawn under subsection 5 if the individual's later conduct and fulfillment of responsibilities assigned in the individual's transition plan for work, education or rehabilitation programs are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or the jail administrator.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Calculation of deduction for work in excess of 8 hours. The Commissioner of Corrections or the sheriff may establish policy and guidelines for crediting hours of participation in work in excess of 8 hours in a day toward another day for the purpose of calculating deductions from a sentence under subsections 3 and 4.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Calculation of deductions following imposition of new or revised sentence of imprisonment for same offense. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed upon the individual for the same offense, the day-for-day deduction must be accorded on the new sentence both for each day the individual served in execution of the initial sentence pursuant to section 2302, subsection 1 and for all previously earned deductions

specified in this section and Title 30-A, section 1606. Prior to the day-for-day deduction being given on the new sentence, the new sentence must be reduced by any deductions specified in section 2305 previously or subsequently received. The deductions applied to the new sentence must be calculated in accordance with this section.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2308. Discretionary deductions based on conduct and fulfillment of responsibilities for individuals who commit certain crimes on or after August 1, 2004

1. Application. The provisions of this section apply only to an individual who commits on or after August 1, 2004 one or more of the following crimes and is sentenced to imprisonment for that crime:

A. Murder; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. A crime listed under chapter 11; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. A crime listed under section 556; [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. A crime listed under section 854, excluding subsection 1, paragraph A, subparagraph (1); [PL 2019, c. 113, Pt. A, §2 (NEW).]

E. A crime listed under chapter 12; or [PL 2019, c. 113, Pt. A, §2 (NEW).]

F. A crime against a family or household member listed under chapter 9 or 13 or section 506-B, 554, 555 or 758. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Commitment to Department of Corrections or specified jail; discretionary 5 days per month deduction. For an individual who commits a crime and is in the custody of the Department of Corrections or a jail in execution of a sentence of imprisonment for that crime, up to 5 days per calendar month may be deducted from that sentence, calculated from the date of its commencement, if that individual's conduct, participation in programs and fulfillment of assigned responsibilities during that calendar month are such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the correctional facility or the jail administrator.

Deductions under this subsection must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 6 days	up to 1
7 to 12 days	up to 2
13 to 18 days	up to 3
19 to 24 days	up to 4
25 to 31 days	up to 5

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Withdrawal of discretionary deductions. Any portion of the time deducted from the sentence of an individual pursuant to subsection 2 may be withdrawn by the chief administrative officer of the correctional facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section or by the jail administrator in accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the individual up to and including the maximum authorized for that sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Restoration of discretionary deductions. The chief administrative officer of the correctional facility or the jail administrator may restore any portion of deductions that have been withdrawn under subsection 3 if the individual's later conduct, participation in programs and fulfillment of assigned

responsibilities are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or jail administrator.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Calculation of deduction for work in excess of 8 hours. The Commissioner of Corrections or the sheriff may establish policy and guidelines for crediting hours of participation in work in excess of 8 hours in a day toward another day for the purpose of calculating deductions from a sentence under subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Calculation of deductions following imposition of new or revised sentence of imprisonment for same offense. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed upon the individual for the same offense, the day-for-day deduction must be accorded on the new sentence both for each day the individual served in execution of the initial sentence pursuant to section 2302, subsection 1 and for all previously earned deductions specified in this section and Title 30-A, section 1606. Prior to the day-for-day deduction being given on the new sentence, the new sentence must be reduced by any deductions specified in section 2305 previously or subsequently received. The deductions applied to the new sentence must be calculated in accordance with this section.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2309. Discretionary deductions based on conduct and participation for individual who committed crime on or after October 1, 1995 but before August 1, 2004

1. Application. This section applies only to an individual who committed a crime on or after October 1, 1995 but before August 1, 2004 and was sentenced to imprisonment for that crime.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Commitment to Department of Corrections or jail; discretionary 5 days per month deduction. For an individual who committed a crime on or after October 1, 1995, but before August 1, 2004, and is in the custody of the Department of Corrections or a jail in execution of a sentence of imprisonment for that crime, up to 5 days per calendar month may be deducted from that sentence, calculated from the date of its commencement, if that individual's conduct, participation in programs and fulfillment of assigned responsibilities during that calendar month are such that the deduction is determined to be warranted in the discretion of the chief administrative officer of the correctional facility or the jail administrator.

Deductions under this subsection must be calculated as follows for partial calendar months:

Days of partial month	Maximum deduction available
1 to 6 days	up to 1
7 to 12 days	up to 2
13 to 18 days	up to 3
19 to 24 days	up to 4
25 to 31 days	up to 5

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Withdrawal of discretionary deductions. Any portion of the time deducted from the sentence of an individual pursuant to subsection 2 may be withdrawn by the chief administrative officer of the correctional facility for a disciplinary offense or for the violation of any law of the State in accordance with Title 34-A, section 3032 and the rules adopted under that section or by the jail administrator in

accordance with jail disciplinary procedures. Deductions may be withdrawn for months already served or yet to be served by the individual up to and including the maximum authorized for that sentence.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Restoration of discretionary deductions. The chief administrative officer of the correctional facility or the jail administrator may restore any portion of deductions that have been withdrawn under subsection 3 if the individual's later conduct, participation in programs and fulfillment of assigned responsibilities are such that the restoration is determined to be warranted in the discretion of the chief administrative officer or jail administrator.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Calculation of deduction for work in excess of 8 hours. The Commissioner of Corrections or the sheriff may establish policy and guidelines for crediting hours of participation in work in excess of 8 hours in a day toward another day for the purpose of calculating deductions from a sentence under subsection 2.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Calculation of deductions following imposition of new or revised sentence of imprisonment for same offense. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed upon the individual for the same offense, the day-for-day deduction must be accorded on the new sentence both for each day the individual served in execution of the initial sentence pursuant to section 2302, subsection 1 and for all previously earned deductions specified in subsection 2 and Title 30-A, section 1606. Prior to the day-for-day deduction being given on the new sentence, the new sentence must be reduced by any deductions specified in section 2305 previously or subsequently received. The deductions applied to the new sentence must be calculated in accordance with this section.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2310. Deductions for individual who committed crime before October 1, 1995 and was sentenced on or after October 1, 1983

1. Application. This section applies only to an individual who committed a crime on or after May 1, 1976 but before October 1, 1995 and who was sentenced on or after October 1, 1983 to imprisonment for that crime.
[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Deduction for individual sentenced to imprisonment for more than 6 months. Beginning October 1, 1983, an individual sentenced to imprisonment for more than 6 months must receive a deduction of 10 days per month for observing all rules of the Department of Corrections and the correctional facility where that individual is confined or the jail where that individual is confined. The period from which the deduction is made must be calculated from the first day the individual is received into the custody of the department or the jail and includes the full length of any imprisonment ordered to be served. This deduction does not apply to any suspended portion of the individual's sentence. For the purpose of calculating the deduction under this subsection, a month is 30 days and a year is 12 months.

Deductions under this subsection must be calculated as follows for partial months:

Days of partial month	Maximum deduction available
0 to 2 days	0
3 to 5 days	1
6 to 8 days	2

9 to 11 days	3
12 to 14 days	4
15 to 17 days	5
18 to 20 days	6
21 to 23 days	7
24 to 26 days	8
27 to 29 days	9
30 days	10

[PL 2019, c. 113, Pt. A, §2 (NEW).]

3. Deduction for individual sentenced to imprisonment for 6 months or less. Beginning October 1, 1983, an individual sentenced to imprisonment for 6 months or less must receive a deduction of 3 days per month for observing all the rules of the Department of Corrections and the correctional facility where that individual is confined or the jail where that individual is confined. The period from which the deduction is made must be calculated from the first day the individual is received into the custody of the department or the jail and includes the full length of any imprisonment order to be served. This deduction does not apply to any suspended imprisonment portion of an individual's sentence. For the purpose of calculating the deduction under this subsection, a month is 30 days.

Deductions under this subsection must be calculated as follows for partial months:

Days of partial month	Maximum deduction available
0 to 7 days	0
8 to 15 days	1
16 to 23 days	2
24 to 30 days	3

[PL 2019, c. 113, Pt. A, §2 (NEW).]

4. Withdrawal of deductions. Any portion of the time deducted from the sentence of an individual pursuant to subsection 2 or 3 may be withdrawn by the chief administrative officer of the correctional facility or the jail administrator for the infraction of any rule of the correctional facility or jail, for any misconduct or for the violation of any law of the State. The withdrawal of a deduction may be made at the discretion of the chief administrative officer or jail administrator, in accordance with policies and guidelines established by the Department of Corrections or by the jail administrator in accordance with jail disciplinary procedures.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

5. Restoration of deductions. The chief administrative officer of the correctional facility or the jail administrator may restore any portion of the deductions that have been withdrawn pursuant to subsection 4 if the individual's later conduct and outstanding effort are determined in the discretion of the chief administrative officer or jail administrator to warrant that restoration.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

6. Commitment to Department of Corrections or jail; additional 3 days per month deduction not subject to withdrawal. An individual in the custody of the Department of Corrections or a jail in execution of a sentence of imprisonment for a crime committed before October 1, 1995 may earn and have deducted up to 3 days per month in addition to the deduction provided pursuant to subsections 2 and 3 if the individual is assigned to or participates in work, education or other responsibilities within the correctional facility or jail or a program that are determined to be of sufficient importance to warrant those deductions in the discretion of the chief administrative officer of the correctional facility or the jail administrator in accordance with policy and guidelines established by the Department of Corrections or sheriff. A deduction awarded under this subsection may not be withdrawn by the chief administrative officer or the jail administrator. For the purpose of calculating a deduction under this subsection, "month" means a calendar month.

Deductions made under this subsection must be calculated as follows for partial months:

Days of partial month	Maximum deduction available
1 to 10 days	up to 1
11 to 20 days	up to 2
21 to 31 days	up to 3

[PL 2019, c. 113, Pt. A, §2 (NEW).]

7. Commitment to Department of Corrections for crime committed before October 1, 1995; additional 2 days per month deduction not subject to withdrawal. An individual in the custody of the Department of Corrections in execution of a sentence of imprisonment for a crime committed before October 1, 1995 may earn and have deducted up to 2 days per month in addition to the days of deductions provided for in subsections 2, 3 and 6 if the individual is assigned to and participates in minimum security or community programs administered by the department. These deductions may also apply if the individual is assigned to or participates in minimum security or community programs through agencies providing services to the department. These deductions may be authorized for work and responsibilities, to include public restitution, that are considered to be of sufficient importance to warrant those deductions in the discretion of the chief administrative officer of the correctional facility in accordance with department policy and guidelines. A deduction awarded under this subsection may not be withdrawn by the chief administrative officer. For the purpose of calculating a deduction under this subsection, "month" means a calendar month.

Deductions made under this subsection must be calculated as follows for partial months:

Days of partial month	Maximum deduction available
1 to 15 days	up to 1
16 to 31 days	up to 2

[PL 2019, c. 113, Pt. A, §2 (NEW).]

8. Calculation of deduction for work in excess of 8 hours. The Commissioner of Corrections or the sheriff may establish policy and guidelines for crediting hours of participation in work in excess of 8 hours in a day toward another day for the purpose of calculating deductions from a sentence of imprisonment under subsections 6 and 7.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

9. Calculation of deductions following imposition of new or revised sentence of imprisonment for same offense. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed upon the individual for the same offense, the day-for-day deduction must be accorded on the new sentence both for each day the individual served in execution of the initial sentence pursuant to section 2302, subsection 1 and for all previously earned deductions specified in subsections 2, 3, 6 and 7 and Title 30-A, section 1606. Prior to the day-for-day deduction being given on the new sentence, the new sentence must be reduced by any deductions specified in section 2305 previously or subsequently received. The deductions applied to the new sentence must be calculated in accordance with this section.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2311. Deductions for individual who committed crime before October 1, 1995 and was sentenced prior to October 1, 1983

1. Application. This section applies only to an individual who committed a crime on or after May 1, 1976 but before October 1, 1995 and who was sentenced prior to October 1, 1983 to imprisonment for that crime.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Deductions based on law in effect at time of offense. Unless otherwise specifically provided by law, deductions based on conduct and participation from a sentence that was imposed prior to October 1, 1983 must be calculated in accordance with the laws in effect on the date the offense was committed. When a judgment of conviction involving a term of imprisonment is vacated or a sentence involving a term of imprisonment is revised or reviewed and a new sentence involving a term of imprisonment is thereafter imposed for the same offense, calculation of deductions based on conduct and participation must be in accordance with the laws in effect on the date that offense was committed. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2312. Deductions applicable to concurrent sentences resulting from new criminal conduct while on probation or administrative release

1. Revocation of probation or administrative release by court before conviction and sentence for new criminal conduct. An individual whose probation or administrative release is revoked by a court for new criminal conduct must receive a deduction for the time the individual serves as a result of the revocation from the sentence that is the result of a conviction for the new criminal conduct if:

A. The new criminal conduct is committed during the probation or administrative release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The revocation of probation or administrative release occurs before the conviction for the new criminal conduct; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The individual is subsequently convicted of a crime arising out of the new criminal conduct; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Concurrent sentences are imposed by the court that do not commence on the same date. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Revocation of probation or administrative release by court after conviction and sentence for new criminal conduct. An individual whose probation or administrative release is revoked by a court following a conviction for new criminal conduct must receive a deduction for the time the individual serves as a result of the conviction for the new criminal conduct from the time the individual is required to serve as a result of the revocation if:

A. The new criminal conduct is committed during the probation or administrative release; [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. The revocation of probation or administrative release occurs after the conviction for the new criminal conduct; [PL 2019, c. 113, Pt. A, §2 (NEW).]

C. The individual is subsequently convicted of a crime arising out of the new criminal conduct; and [PL 2019, c. 113, Pt. A, §2 (NEW).]

D. Concurrent sentences are imposed by the court that do not commence on the same date. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2313. Deductions relative to parole eligibility for individual sentenced prior to effective date of Maine Criminal Code

An individual convicted of an offense committed prior to May 1, 1976 and sentenced under the law then in effect may elect to have that individual's parole eligibility calculated using the deductions based on conduct and participation available to individuals sentenced under this Code. The election must result in the application of deductions pursuant to section 2310. The parole eligibility and deductions based on conduct and participation of an individual who does not so elect must be calculated in accordance with the laws in effect on the date the offense was committed. This section may not be construed to compel or permit discharge of any individual sooner than the discharge would have occurred under the law in effect on the date the offense was committed. [PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

§2314. Release from imprisonment

1. Unconditional release and discharge. An individual committed to the custody of the Department of Corrections or a jail in execution of a sentence of imprisonment must be unconditionally released and discharged upon the expiration of that individual's sentence, as determined after the deductions afforded that individual under this chapter, except that release is subject to the following provisions.

A. If the applicable calculations for an individual committed to the custody of the Department of Corrections fix the release and discharge date on a Saturday, Sunday or legal holiday, that individual may be released and discharged on the last regular business day of the correctional facility preceding that Saturday, Sunday or legal holiday. [PL 2019, c. 113, Pt. A, §2 (NEW).]

B. If the length of the term of imprisonment to be served by an individual committed to the custody of a jail is 8 days or more, that individual may be released at any time on the final day of imprisonment, in accordance with jail release procedures; otherwise, that individual may not be released until the sentence expires. [PL 2019, c. 113, Pt. A, §2 (NEW).]

[PL 2019, c. 113, Pt. A, §2 (NEW).]

2. Release of individual sentenced prior to effective date of Maine Criminal Code. An individual in the custody of the Department of Corrections pursuant to a sentence imposed under the law in effect prior to May 1, 1976 must be released and discharged according to the law as it was in force prior to May 1, 1976 and such law continues in force for this purpose as if this Code were not enacted.

[PL 2019, c. 113, Pt. A, §2 (NEW).]

SECTION HISTORY

PL 2019, c. 113, Pt. A, §2 (NEW).

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