

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Provide Uniform Treatment of Prior Convictions in the Maine Criminal Code

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

Sec. 1. 17-A MRSA §2, sub-§3-B is enacted to read:

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 and each of the several states except Maine. "Another jurisdiction" also means the Passamaquoddy Tribe when that tribe has acted pursuant to Title 30, section 6209-A, subsection 1, paragraph A or B and the Penobscot Nation when that tribe has acted pursuant to Title 30, section 6209-B, subsection 1, paragraph A or B.

Sec. 2. 17-A MRSA §152-A, sub-§1, ¶C, as enacted by PL 2001, c. 413, §2, is amended to read:

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;

Sec. 3. 17-A MRSA §257, sub-§1, ¶D, as enacted by PL 1995, c. 429, §2, is amended to read:

D. The offender has been previously convicted of a crime under chapter 11 or previously convicted under the laws of the United States or any other state in another jurisdiction for conduct substantially similar to that contained in chapter 11.

Sec. 4. 17-A MRSA §282, sub-§1, ¶B, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior convictions ~~for violating~~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;

Sec. 5. 17-A MRSA §282, sub-§1, ¶E, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

E. The person violates paragraph D and, at the time of the offense, the person has one or more prior convictions ~~for violating~~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

Sec. 6. 17-A MRSA §283, sub-§1, ¶B, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

B. The person violates paragraph A and, at the time of the offense, has one or more prior convictions ~~for violating~~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;

Sec. 7. 17-A MRSA §283, sub-§1, ¶D, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

D. The person violates paragraph C and, at the time of the offense, has one or more prior convictions ~~for violating~~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.

Sec. 8. 17-A MRSA §284, sub-§1, ¶B, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

B. Violates paragraph A and, at the time of the offense, has one or more prior convictions ~~for violating~~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;

Sec. 9. 17-A MRSA §284, sub-§1, ¶D, as enacted by PL 2003, c. 711, Pt. B, §12, is amended to read:

D. Violates paragraph C and, at the time of the offense, has one or more prior convictions ~~for violating~~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.

Sec. 10. 17-A MRSA §353, sub-§1, ¶B, as amended by PL 2005, c. 199, §4, is further amended to read:

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 ~~Maine~~ convictions for any combination of the following ~~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 thereat 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

Sec. 11. 17-A MRS §354, sub-§1, ¶B, as amended by PL 2001, c. 667, Pt. D, §4 and affected by §36, is further amended to read:

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 ~~Maine~~ convictions for any combination of the following ~~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 thereat 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.

Sec. 12. 17-A MRSA §354-A, sub-§1, ¶B, as amended by PL 2001, c. 667, Pt. D, §5 and affected by §36, is further amended to read:

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 Maine convictions for any combination of the following 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 thereat 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.

Sec. 13. 17-A MRSA §356-A, sub-§1, ¶B, as amended by PL 2001, c. 667, Pt. D, §6 and affected by §36, is further amended to read:

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 ~~Maine~~ convictions for any combination of the following 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 thereat 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.

Sec. 14. 17-A MRSA §357, sub-§1, ¶B, as amended by PL 2001, c. 667, Pt. D, §7 and affected by §36, is further amended to read:

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 ~~Maine~~ convictions for any combination of the following 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 thereatto 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.

Sec. 15. 17-A MRSA §357, sub-§2, ¶B, as amended by PL 2001, c. 667, Pt. D, §8 and affected by §36, is further amended to read:

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 Maine convictions for any combination of the following 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 thereatto 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.

Sec. 16. 17-A MRSA §358, sub-§1, ¶B, as amended by PL 2001, c. 667, Pt. D, §9 and affected by §36, is further amended to read:

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 Maine convictions for any combination of the following 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 thereat 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 Maine convictions for any combination of the following 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 thereat 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.

Sec. 17. 17-A MRSA §359, sub-§1, ¶B, as amended by PL 2001, c. 667, Pt. D, §10 and affected by §36, is further amended to read:

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 Maine convictions for any combination of the following 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 thereat 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.

Sec. 18. 17-A MRSA §360, sub-§1, ¶A-1, as enacted by PL 2003, c. 510, Pt. C, §4, is amended to read:

A-1. The person violates paragraph A and the person has 2 or more prior Maine convictions for any combination of the following 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 thereat 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;

Sec. 19. 17-A MRSA §360, sub-§1, ¶B-1, as enacted by PL 2003, c. 510, Pt. C, §4, is amended to read:

B-1. The person violates paragraph B and the person has 2 or more prior ~~Maine~~ convictions for any combination of the ~~following~~ 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 ~~thereatto 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;

Sec. 20. 17-A MRSA §360, sub-§1, ¶D, as enacted by PL 2003, c. 510, Pt. C, §4, is amended to read:

D. The person violates paragraph C and the person has 2 or more prior ~~Maine~~ convictions for any combination of the ~~following~~ 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 ~~thereatto 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.

Sec. 21. 17-A MRSA §401, sub-§1, ¶B, as enacted by PL 2001, c. 383, §53 and affected by §156, is amended to read:

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 ~~Class A, B or C~~ 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.

Sec. 22. 17-A MRSA §402-A, sub-§1, ¶B, as amended by PL 2001, c. 383, §59 and affected by §156, is further amended to read:

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.

Sec. 23. 17-A MRSA §506-A, sub-§1, ¶B, as enacted by PL 2001, c. 383, §66 and affected by §156, is amended to read:

B. The person violates paragraph A and, at the time of the harassment, the person has 2 or more prior Maine convictions ~~for violations of~~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.

Sec. 24. 17-A MRSA §554-B, sub-§5, ¶B, as enacted by PL 2003, c. 188, §2, is amended to read:

B. A person who violates this section and, at the time of the offense, has ~~aone or more prior conviction~~convictions for unlawfully transferring a handgun to a minor commits a Class C crimeunder 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.

Sec. 25. 17-A MRSA §556, sub-§1, ¶B, as enacted by PL 2001, c. 383, §70 and affected by §156, is amended to read:

B. Violates paragraph A and, at the time of the incest, the person has 2 or more prior Maine convictions ~~for violations of~~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.

Sec. 26. 17-A MRSA §703, sub-§1, ¶A-1, as amended by PL 2001, c. 667, Pt. D, §13 and affected by §36, is further amended to read:

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 ~~following~~ 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; ~~violation or attempted~~ any violation of this section; any violation ~~or attempted~~ violation of section 401 ~~if in which~~ the intended crime within ~~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 ~~or attempted~~ violation of section 651; ~~or any violation or attempted 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;

Sec. 27. 17-A MRSA §703, sub-§1, ¶B-1, as amended by PL 2001, c. 667, Pt. D, §13 and affected by §36, is further amended to read:

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 ~~following~~ 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; ~~violation or attempted~~ any violation of this section; any violation ~~or attempted~~ violation of section 401 ~~if in which~~ the intended crime within ~~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 ~~or attempted~~ violation of section 651; ~~or any violation or attempted 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.

Sec. 28. 17-A MRSA §708, sub-§1, ¶B, as amended by PL 2001, c. 667, Pt. D, §15 and affected by §36, is further amended to read:

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 ~~following~~ 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; violation or attempted ~~any violation of this section; any violation or attempted violation of section 401 if in which the intended crime within 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 or attempted violation of section 651; or any violation or attempted violation of section 702 or 708703; 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.~~

Sec. 29. 17-A MRSA §853-A, sub-§1, ¶B, as enacted by PL 2001, c. 383, §99 and affected by §156, is amended to read:

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior ~~conviction for engaging in prostitution~~ 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.

Sec. 30. 17-A MRSA §853-B, sub-§1, ¶B, as enacted by PL 2001, c. 383, §102 and affected by §156, is amended to read:

B. The person violates paragraph A and, at the time of the offense, the person has one or more prior ~~conviction for engaging a prostitute~~ 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.

Sec. 31. 17-A MRSA §854, sub-§1, ¶A, as amended by PL 2001, c. 383, §105 and affected by §156, is further amended to read:

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 ~~violation of 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 ~~violation of 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;

Sec. 32. 17-A MRSA §854, sub-§1, ¶D, as enacted by PL 2001, c. 383, §105 and affected by §156, is amended to read:

D. The actor violates paragraph B and the actor has 2 or more prior convictions for ~~violation of 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

Sec. 33. 17-A MRSA §854, sub-§1, ¶E, as enacted by PL 2001, c. 383, §105 and affected by §156, is amended to read:

E. The actor violates paragraph C and the actor has 2 or more prior convictions for ~~violation of 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.

Sec. 34. 17-A MRSA §908, sub-§1, ¶F, as enacted by PL 2001, c. 383, §110 and affected by §156, is amended to read:

F. Violates paragraph A and the person has 2 or more prior Maine convictions for ~~violation of 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;

Sec. 35. 17-A MRSA §908, sub-§1, ¶G, as enacted by PL 2001, c. 383, §110 and affected by §156, is amended to read:

G. Violates paragraph B and the person has 2 or more prior Maine convictions ~~for violation of~~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;

Sec. 36. 17-A MRSA §908, sub-§1, ¶H, as enacted by PL 2001, c. 383, §110 and affected by §156, is amended to read:

H. Violates paragraph C and the person has 2 or more prior Maine convictions ~~for violation of~~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;

Sec. 37. 17-A MRSA §908, sub-§1, ¶I, as enacted by PL 2001, c. 383, §110 and affected by §156, is amended to read:

I. Violates paragraph D and the person has 2 or more prior Maine convictions ~~for violation of~~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

Sec. 38. 17-A MRSA §908, sub-§1, ¶J, as enacted by PL 2001, c. 383, §110 and affected by §156, is amended to read:

J. Violates paragraph E and the person has 2 or more prior Maine convictions ~~for violation of~~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.

Sec. 39. 17-A MRSA §1105-A, sub-§1, ¶B, as enacted by PL 2001, c. 383, §119 and affected by §156, is amended to read:

B. At the time of the offense, the person has ~~been convicted of an offense under this chapter punishable by a term of imprisonment of more than one year or under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year~~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;

Sec. 40. 17-A MRSA §1105-B, sub-§1, ¶B, as amended by PL 2003, c. 476, §3, is further amended to read:

~~B. At the time of the offense, the person has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year or under any law of the United States, of another state or of a foreign country relating to scheduled drugs or counterfeit drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year~~ 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;

Sec. 41. 17-A MRSA §1105-C, sub-§1, ¶B, as enacted by PL 2001, c. 383, §119 and affected by §156, is amended to read:

~~B. At the time of the offense, the person has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year or under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year~~ 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;

Sec. 42. 17-A MRSA §1105-D, sub-§1, ¶A, as enacted by PL 2001, c. 383, §119 and affected by §156, is amended to read:

A. ~~At the time of the offense, the person has been convicted of any offense under this chapter punishable by a term of imprisonment of more than one year or under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined in this chapter, and punishable by a term of imprisonment of more than one year~~ 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;

Sec. 43. 17-A MRSA §1107-A, sub-§1, ¶B, as amended by PL 2005, c. 442, §1, is further amended to read:

B. A schedule W drug that is:

(1) Heroin (diacetylmorphine);

(2) Cocaine in the form of cocaine base and at the time of the offense the person has been ~~convicted of one or more prior convictions for any offense under this chapter or under any law of the United States, another state or a foreign country relating to scheduled drugs, as defined in this chapter~~ for engaging in substantially similar conduct to that of the Maine offenses under this chapter in another jurisdiction. For the purposes of this paragraph, a person has been convicted of an offense on the date the judgment of conviction was entered by the court;

(3) Methamphetamine;

(4) Oxycodone;

(5) Hydrocodone; or

(6) Hydromorphone.

Violation of this paragraph is a Class C crime;

Sec. 44. 17-A MRSA §1111-A, sub-§3, ¶B, as enacted by PL 1981, c. 266, is amended to read:

B. ~~Prior~~ One or more prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any scheduled drug 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;

Sec. 45. 17-A MRSA §1252, sub-§4-A, as amended by PL 2005, c. 527, §18, is further amended to read:

4-A. If the State pleads and proves that, at the time any crime, excluding murder, under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C was committed, the defendant had been ~~convicted of 2 or more crimes violating prior convictions under chapter 9, 11, 13 or 27; section 402-A, subsection 1, paragraph A; or section 752-A or 752-C or essentially~~ for engaging in substantially similar crimes conduct in other jurisdictions another jurisdiction, the sentencing class for the crime is one class higher than it would otherwise be. In the case of a Class A crime, the sentencing class is not increased, but the prior record must be given serious consideration by the court when imposing a sentence. Section 9-A governs the use of prior convictions when determining a sentence, except that, for the purposes of this subsection, for violations under chapter 11, the dates of prior convictions may have occurred at any time. This subsection does not apply to section 210-A if the prior convictions have already served to enhance the sentencing class under section 210-A, subsection 1, paragraph C or any other offense in which prior convictions have already served to enhance the sentencing class.

Sec. 46. 17-A MRSA §1252, sub-§4-B, as amended by PL 2005, c. 527, §19, is further amended to read:

4-B. If the State pleads and proves that the defendant is a repeat sexual assault offender, the court, notwithstanding subsection 2, may set a definite period of imprisonment for any term of years.

A. As used in this section, "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:

- (1) Gross sexual assault, formerly denominated as gross sexual misconduct;
- (2) Rape;
- (3) Attempted murder accompanied by sexual assault;
- (4) Murder accompanied by sexual assault; or
- (5) Conduct substantially similar to a crime listed in subparagraph (1), (2), (3) or (4) that is a crime under the laws of ~~the United States or any other state~~ another jurisdiction.

The date of sentencing is the date of the oral pronouncement of the sentence by the trial court, even if an appeal is taken.

B. "Accompanied by sexual assault" as used with respect to attempted murder, murder and crimes involving substantially similar conduct in ~~other jurisdictions~~ another jurisdiction is satisfied if it was definitionally an element of the crime or was pleaded and proved beyond a reasonable doubt at trial by the State or ~~other~~ another jurisdiction.

SUMMARY

This bill is proposed by the Criminal Law Advisory Commission. The bill adds a definition for "another jurisdiction" in subsection 3-B of section 2 of the Maine Criminal Code, so that this term has consistent meaning throughout the code. "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, the Passamaquoddy Tribe and the Penobscot Nation when a tribe has acted pursuant to the Maine Revised Statutes, Title 30, section 6209-A, subsection 1, paragraph A or B and Title 30, section 6209-B, subsection 1, paragraph A or B, respectively. "Another jurisdiction" does not include any foreign country. The bill also amends various crimes and sentencing provisions by replacing inconsistent terminology with the new term "another jurisdiction."

Without modifying either the number of prior convictions currently required or the currently qualifying Maine convictions, the bill amends various crimes and sentencing provisions so that prior

convictions uniformly include both the specifically identified Maine convictions as well as convictions for engaging in substantially similar conduct in another jurisdiction.

The bill replaces in numerous Title 17-A, chapter 45 drug provisions "convicted of an offense under this chapter punishable by a term of imprisonment of more than one year" with "one or more prior convictions for a Class A, B or C offense under this chapter" to clarify that the qualifying Maine chapter 45 convictions include Class C crimes. The bill also replaces in numerous chapter 45 provisions "convicted of an offense under any law of the United States, of another state or of a foreign country relating to scheduled drugs, as defined by this chapter, and punishable by a term of imprisonment of more than one year" with "convicted of engaging in substantially similar conduct to that of the Class A, B or C offenses under this chapter or another jurisdiction."