

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

Amend the bill by striking out the title and substituting the following:

**'An Act To Increase the Number of Mandated Reporters
of Abuse, Neglect or Exploitation and To Clarify the
Probation Laws Relating to Violation of Protection Orders'**

Amend the bill by inserting after section 3 the following:

'Sec. 4. 17-A MRSA §1201, sub-§1, ¶A-1, as repealed and replaced by PL 2007, c. 475, §14, is amended to read:

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

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

(2) A Class D crime that the State pleads and proves was committed against a family or household member; ~~or a dating partner or a victim of sexual assault or stalking under chapter 9 or 13 or section 506-B, 554, 555 or 758.~~ As used in this subparagraph, "family or household member" has the same meaning as in Title 19-A, section 4002, subsection 4; "dating partner" has the same meaning as in Title 19-A, section 4002, subsection 3-A; ~~"victim of sexual assault or stalking" means a person who has been a victim of conduct defined as stalking in section 210-A or described as sexual assault in chapter 11 committed by someone other than a family or household member or dating partner;~~

(2-A) 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;

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

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

(4-A) A Class E crime under section 552;

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

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

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

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment corrects the probation statutes to delete the reference to whether a Class D crime was committed against a victim of sexual assault or stalking. Public Law 2007, chapter 340 expanded the list of persons eligible to apply for and obtain protection from abuse orders beyond family and household members to include dating partners and victims of sexual assault or stalking. A parallel change was made to the probation statutes to authorize probation when a Class D crime is committed against a family or household member, a dating partner or a victim of sexual assault or stalking. This expansion is too broad because it is not always clear who had been a victim of sexual assault or stalking when dealing with a subsequent crime. Whether the victim and perpetrator are family or household members or dating partners is an easy factual question to answer; whether the victim was ever a victim of sexual assault or stalking is not necessarily as easy to show. The amendment makes clear that probation is available for all violations of protection orders that are Class D crimes; therefore, probation will be available when the basis for issuing the protection order had been that the petitioner was a victim of sexual assault or stalking.

This amendment also clarifies the statutes under which a defendant has violated a protective order to specifically list those statutes.