



129th MAINE LEGISLATURE

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Legislative Document

No. 262

S.P. 74

In Senate, January 22, 2019

**An Act To Protect Law Enforcement and Corrections Officers by
Creating the Crime of Aggravated Assault on an Officer**

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CYRWAY of Kennebec.
Cosponsored by Representative HANLEY of Pittston and
Senators: CLAXTON of Androscoggin, DAVIS of Piscataquis, FOLEY of York,
TIMBERLAKE of Androscoggin, Representatives: BRADSTREET of Vassalboro,
CAMPBELL of Orrington, NADEAU of Winslow, WHITE of Waterville.

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

2 **Sec. 1. 17-A MRSA §752-A, sub-§1, ¶A,** as enacted by PL 1977, c. 656, §2, is
3 amended to read:

4 A. ~~He~~ The person intentionally, knowingly or recklessly causes bodily injury or
5 offensive physical contact to a law enforcement officer while the officer is in the
6 performance of his the officer's official duties; or

7 **Sec. 2. 17-A MRSA §752-F** is enacted to read:

8 **§752-F. Aggravated assault on an officer**

9 A person is guilty of aggravated assault on an officer if:

10 1. That person intentionally, knowingly or recklessly causes a law enforcement
11 officer while the law enforcement officer is in the performance of the officer's official
12 duties to suffer a:

13 A. Bodily injury that creates a substantial risk of death or extended convalescence
14 necessary for recovery of physical health. Violation of this paragraph is a Class B
15 crime;

16 B. Bodily injury that causes serious, permanent disfigurement or loss or substantial
17 impairment of the function of any bodily member or organ. Violation of this
18 paragraph is a Class A crime;

19 C. Bodily injury from the use of a dangerous weapon. Violation of this paragraph is
20 a Class B crime; or

21 D. Bodily injury under circumstances manifesting extreme indifference to the value
22 of human life. Such circumstances include, but are not limited to, the number,
23 location or nature of the injuries, the manner or method inflicted, the observable
24 physical condition of the victim or the use of strangulation. For the purposes of this
25 paragraph, "strangulation" means the intentional impeding of the breathing or
26 circulation of the blood of another person by applying pressure on the person's throat
27 or neck. Violation of this paragraph is a Class B crime; or

28 2. While in custody pursuant to an arrest or pursuant to a court order, the person
29 intentionally, knowingly or recklessly causes a corrections officer, a corrections
30 supervisor or another member of the staff of a correctional institution while the officer,
31 supervisor or staff member is performing official duties to suffer a:

32 A. Bodily injury that creates a substantial risk of death or extended convalescence
33 necessary for recovery of physical health. Violation of this paragraph is a Class B
34 crime;

35 B. Bodily injury that causes serious, permanent disfigurement or loss or substantial
36 impairment of the function of any bodily member or organ. Violation of this
37 paragraph is a Class A crime;

1 C. Bodily injury from the use of a dangerous weapon. Violation of this paragraph is
2 a Class B crime; or

3 D. Bodily injury under circumstances manifesting extreme indifference to the value
4 of human life. Such circumstances include, but are not limited to, the number,
5 location or nature of the injuries, the manner or method inflicted, the observable
6 physical condition of the victim or the use of strangulation. For the purposes of this
7 paragraph, "strangulation" means the intentional impeding of the breathing or
8 circulation of the blood of another person by applying pressure on the person's throat
9 or neck. Violation of this paragraph is a Class B crime.

10 **Sec. 3. 17-A MRSA §1252, sub-§4**, as amended by PL 2005, c. 527, §17, is
11 further amended to read:

12 **4.** If the State pleads and proves that a Class B, C, D or E crime was committed with
13 the use of a dangerous weapon then the sentencing class for such crime is one class
14 higher than it would otherwise be. In the case of a Class A crime committed with the use
15 of a dangerous weapon, such use should be given serious consideration by the court in
16 exercising its sentencing discretion. This subsection does not apply to a violation or an
17 attempted violation of section 208 or 752-F, to any other offenses to which use of a
18 dangerous weapon serves as an element or to any offense for which the sentencing class
19 is otherwise increased because the actor or an accomplice to that actor's or accomplice's
20 knowledge is armed with a firearm or other dangerous weapon.

21 **Sec. 4. 17-A MRSA §1252, sub-§4-A**, as amended by PL 2017, c. 336, §1, is
22 further amended to read:

23 **4-A.** If the State pleads and proves that, at the time any crime, excluding murder,
24 under chapter 9, 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection
25 1, paragraph A; or section 752-A or 752-C or 752-F was committed, or an attempt of any
26 such crime was committed, the defendant had 2 or more prior convictions under chapter
27 9, 11, 12, 13, 27 or 35, excluding section 853-A; section 402-A, subsection 1, paragraph
28 A; or section 752-A or 752-C or 752-F, or for an attempt of any such crime, or for
29 engaging in substantially similar conduct in another jurisdiction, the sentencing class for
30 the crime is one class higher than it would otherwise be. In the case of a Class A crime,
31 the sentencing class is not increased, but the prior record must be given serious
32 consideration by the court when imposing a sentence. Section 9-A governs the use of
33 prior convictions when determining a sentence, except that, for the purposes of this
34 subsection, for violations under chapter 11, the dates of prior convictions may have
35 occurred at any time. This subsection does not apply to section 210-A if the prior
36 convictions have already served to enhance the sentencing class under section 210-A,
37 subsection 1, paragraph C or any other offense in which prior convictions have already
38 served to enhance the sentencing class.

39 **SUMMARY**

40 This bill changes the crime of assault on an officer to include offensive physical
41 contact and creates the crime of aggravated assault on an officer, which includes assaults

1 against law enforcement officers and corrections officers and other corrections personnel
2 and which is modeled on the crime of aggravated assault.