



129th MAINE LEGISLATURE

SECOND REGULAR SESSION-2020

Legislative Document

No. 2037

H.P. 1447

House of Representatives, January 14, 2020

An Act To Amend the Maine Criminal Code

Reported by Representative WARREN of Hallowell for the Criminal Law Advisory Commission pursuant to the Maine Revised Statutes, Title 17-A, section 1354, subsection 2.
Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **PART A**

3 **Sec. A-1. 17-A MRSA §1609**, as enacted by PL 2019, c. 113, Pt. A, §2, is
4 repealed and the following enacted in its place:

5 **§1609. Nonconcurrent sentence**

6 **1. Mandatory nonconcurrent sentence.** Notwithstanding section 1608, when an
7 individual subject to an undischarged term of imprisonment is convicted of a crime
8 committed while in execution of any term of imprisonment, the sentence is not concurrent
9 with any undischarged term of imprisonment. The court may order that any undischarged
10 term of imprisonment be tolled and service of the nonconcurrent sentence commence
11 immediately and the court shall so order if any undischarged term of imprisonment is a
12 split sentence. No portion of the nonconcurrent sentence may be suspended. Any sentence
13 that the convicted individual receives as a result of the conviction of a crime while in
14 execution of a term of imprisonment must be nonconcurrent with all other sentences.

15 This subsection also applies to prisoners on supervised community confinement pursuant
16 to Title 34-A, section 3036-A.

17 **2. Discretionary nonconcurrent sentence.** Notwithstanding section 1608, when an
18 individual subject to an undischarged term of imprisonment is convicted of a crime
19 committed during a stay of execution of any term of imprisonment, convicted of a crime
20 committed after failure to report after a stay of execution of any term of imprisonment or
21 convicted of failure to report as ordered after a stay of execution of any term of
22 imprisonment, the court may order that the sentence is not concurrent with any
23 undischarged term of imprisonment. If the court orders that the sentence is not
24 concurrent, the court may order that any undischarged term of imprisonment be tolled and
25 service of the nonconcurrent sentence commence immediately, and the court shall so
26 order if any undischarged term of imprisonment is a split sentence. No portion of the
27 nonconcurrent sentence may be suspended. Any nonconcurrent sentence that the
28 convicted individual receives as a result of an order entered pursuant to this subsection
29 must be nonconcurrent with all other sentences.

30 **PART B**

31 **Sec. B-1. 17-A MRSA §2016, sub-§1**, as enacted by PL 2019, c. 113, Pt. A, §2,
32 is amended to read:

33 **1. Work program; payment of restitution and fines.** A prisoner who has been
34 ordered to pay restitution or fines may not be released pursuant to a work program
35 administered by the Department of Corrections under Title 34-A, section 3035, or a
36 sheriff under Title 30-A, section 1605, or participate in an industry program under Title
37 34-A, section 1403, subsection 9 or any other program administered by the Department of
38 Corrections or a sheriff by which a prisoner is able to generate money, unless the prisoner
39 consents to pay at least 25% of the prisoner's gross weekly wages or other money
40 generated to the victim or the court until such time as full restitution has been made or the

1 fine is paid in full. The chief administrative officer of the correctional facility where the
2 prisoner is incarcerated shall collect and disburse to the victim or victims that portion of
3 the prisoner's wages or other money generated agreed to as payment of restitution. The
4 chief administrative officer of the correctional facility where the prisoner is incarcerated
5 shall also collect and disburse to the court that portion of the prisoner's wages or other
6 money generated agreed to as payment of fines after the restitution is paid in full. If the
7 victim or victims ordered by the court to receive restitution cannot be located, the
8 correctional facility shall ~~inform the court that ordered restitution. The court shall~~
9 ~~determine the distribution of these funds~~ forward the funds, as provided in section 2009,
10 to the Treasurer of State to be handled as unclaimed property.

11 **Sec. B-2. 17-A MRSA §2016, sub-§2**, as enacted by PL 2019, c. 113, Pt. A, §2,
12 is amended to read:

13 **2. Payment of restitution or fines from other sources.** A prisoner, other than one
14 addressed by subsection 1, who receives money, from any source, shall pay 25% of that
15 money to any victim or the court if the court has ordered that restitution or a fine be paid.
16 The chief administrative officer of the correctional facility in which the prisoner is
17 incarcerated shall collect and disburse to the victim or victims that portion of the
18 prisoner's money ordered as restitution. The chief administrative officer of the
19 correctional facility where the prisoner is incarcerated shall also collect and disburse to
20 the court that portion of the prisoner's money ordered as fines after the restitution is paid
21 in full. If the victim or victims ordered by the court to receive restitution cannot be
22 located, the correctional facility shall ~~inform the court that ordered restitution. The court~~
23 ~~shall determine the distribution of these funds~~ forward the funds, as provided in section
24 2009, to the Treasurer of State to be handled as unclaimed property. Money received by
25 the prisoner and directly deposited into a telephone call account established by the
26 Department of Corrections for the sole purpose of paying for use of the department's
27 client telephone system is not subject to this subsection, except that 25% of any money
28 received by the prisoner and transferred from the telephone call account to the
29 department's general client account at the time of the prisoner's discharge or transfer to
30 supervised community confinement must be collected and disbursed as provided in this
31 subsection.

32 **PART C**

33 **Sec. C-1. 17-A MRSA §301, sub-§1, ¶A**, as amended by PL 2001, c. 383, §26
34 and affected by §156, is further amended to read:

35 A. The actor knowingly restrains another person with the intent to:

- 36 (1) Hold the other person for ransom or reward;
- 37 (2) Use the other person as a shield or hostage;
- 38 (3) Inflict bodily injury upon the other person ~~or subject the other person to~~
39 ~~conduct defined as criminal in chapter 11;~~
- 40 (3-A) Subject the other person to conduct defined as criminal in chapter 11;
- 41 (4) Terrorize the other person or a 3rd person;

1 (5) Facilitate the commission of another crime by any person or flight thereafter;
2 or

3 (6) Interfere with the performance of any governmental or political function; or

4 **Sec. C-2. 34-A MRSA §11203, sub-§6, ¶B**, as repealed and replaced by PL
5 2013, c. 424, Pt. A, §19, is amended to read:

6 B. A violation under former Title 17, section 2922; former Title 17, section 2923;
7 former Title 17, section 2924; Title 17-A, section 253, subsection 2, paragraph E, F,
8 G, H, I or J; Title 17-A, section 254; former Title 17-A, section 255, subsection 1,
9 paragraph A, E, F, G, I or J; former Title 17-A, section 255, subsection 1, paragraph
10 B or D if the crime was not elevated a class under former Title 17-A, section 255,
11 subsection 3; Title 17-A, section 255-A, subsection 1, paragraph A, B, C, F-2, G, I, J,
12 K, L, M, N, Q, R, S or T; Title 17-A, section 256; Title 17-A, section 258; former
13 Title 17-A, section 259; Title 17-A, section 282; Title 17-A, section 283; Title 17-A,
14 section 284; Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3)
15 (3-A), unless the actor is a parent of the victim; Title 17-A, section 511, subsection 1,
16 paragraph D; Title 17-A, section 556; Title 17-A, section 852, subsection 1,
17 paragraph B; or Title 17-A, section 855;

18 **Sec. C-3. 34-A MRSA §11273, sub-§16, ¶C**, as enacted by PL 2011, c. 663, §3,
19 is amended to read:

20 C. Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3) (3-A);

21 **Sec. C-4. 37-B MRSA §504, sub-§4, ¶H**, as enacted by PL 2015, c. 175, §1, is
22 amended by amending subparagraph (3) to read:

23 (3) Been convicted of a Class A or Class B crime under:

24 (a) Title 17-A, chapter 11;

25 (b) Title 17-A, chapter 12; or

26 (c) Title 17-A, section 301, subsection 1, paragraph A, subparagraph (3)
27 (3-A);

28 PART D

29 **Sec. D-1. 17-A MRSA §1111-B**, as amended by PL 2019, c. 292, §1, is further
30 amended to read:

31 **§1111-B. Exemption from criminal liability for reporting a drug-related medical** 32 **emergency or administering naloxone**

33 A person who in good faith seeks medical assistance for or administers naloxone
34 hydrochloride to another person experiencing a drug-related overdose or who is
35 experiencing a drug-related overdose and is in need of medical assistance may not be
36 arrested or, prosecuted for or subject to revocation of probation based on conduct that
37 would otherwise constitute a violation of section 1107-A, 1108, 1111 or 1111-A ~~or a~~
38 ~~violation of probation as authorized by chapter 49~~ if the grounds for arrest or prosecution

1 are obtained as a result of the person's seeking medical assistance, administering
2 naloxone hydrochloride or experiencing a drug-related overdose.

3 **SUMMARY**

4 This bill is submitted by the Criminal Law Advisory Commission pursuant to the
5 Maine Revised Statutes, Title 17-A, section 1354, subsection 2.

6 Part A of the bill authorizes nonconcurrent sentencing when a crime is committed by
7 a convicted person during a stay of execution of any term of imprisonment or after failure
8 to report after a stay of execution of any term of imprisonment. It also authorizes
9 nonconcurrent sentencing when the convicted person is convicted of the crime of failure
10 to report as ordered after a stay of execution of any term of imprisonment.

11 Part B amends Title 17-A, section 2016 to make it consistent with existing law in
12 Title 17-A, section 2009 with respect to disposition of funds by correctional facilities
13 when they hold funds for the purposes of restitution and the victim cannot be located.
14 Current Title 17-A, section 2016 requires the facility to notify the court and the court to
15 determine distribution of the funds. The bill requires the facility to forward the funds to
16 the Treasurer of State to be handled as unclaimed property, consistent with current Title
17 17-A, section 2009.

18 Part C separates 2 variants of kidnapping under Title 17-A, section 301, subsection 1,
19 paragraph A, subparagraph (3). The crime of kidnapping with the intent to inflict bodily
20 injury is distinct from the crime of kidnapping with the intent to subject a person to
21 criminal activity defined in Title 17-A, chapter 11. The latter remains a Tier III crime
22 requiring registration pursuant to the Sex Offender Registration and Notification Act of
23 2013. Crimes committed in violation of Title 17-A, section 301, subsection 1, paragraph
24 A, subparagraph (3) after the effective date of this legislation will not require registration.
25 In addition, this provision provides clarity in the Maine Criminal Code and a more
26 accurate reference for purposes of crime data.

27 Part D clarifies that immunity from revocation of probation is limited to the same
28 conduct for which there is immunity from prosecution under the law protecting persons
29 seeking medical assistance or administering naloxone hydrochloride or experiencing a
30 drug-related overdose.