

## 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 a safe haven baby box as defined in Title 22, section 4018, subsection 1, paragraph A-1 or 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;

(4) A hospital staff member at a hospital; or

(5) A firefighter at a fire department facility. [PL 2021, c. 466, §1 (AMD).]

[PL 2021, c. 466, §1 (AMD).]

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). PL 2021, c. 466, §1 (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; [PL 2021, c. 388, §1 (AMD).]

B-4. Acting with criminal negligence stores or leaves on premises that are under the person's control a loaded firearm in a manner that allows a child under 16 years of age to gain access to the loaded firearm without the permission of the child's parent, foster parent or guardian and the child in fact gains access to the loaded firearm and:

(1) Uses the loaded firearm in a reckless or threatening manner;

(2) Uses the loaded firearm during the commission of a crime; or

(3) Discharges the loaded firearm.

Violation of this paragraph is a Class D crime; or [PL 2021, c. 388, §2 (NEW).]

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 2021, c. 388, §§1, 2 (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).]

4. It is an affirmative defense to prosecution under subsection 1, paragraph B-4 that:

A. The loaded firearm is:

(1) Stored in a locked box, locked gun safe or other secure, locked space;

(2) Stored or left in a location that a reasonable person would believe to be secure; or

(3) Secured with a trigger lock or similar device that prevents the firearm from discharging; [PL 2021, c. 388, §3 (NEW).]

B. The loaded firearm is carried on the person or within such close proximity to the person that the person can readily retrieve and use the firearm as if the firearm were carried on the person; [PL 2021, c. 388, §3 (NEW).]

C. A child who in fact gains access to the loaded firearm gains access in order to defend the child or a 3rd person under the circumstances enumerated in section 108, subsection 2, paragraph A or B; [PL 2021, c. 388, §3 (NEW).]

D. The person has no reasonable expectation, based on objective facts and circumstances, that a child is likely to be present on the premises where the person stores or leaves the loaded firearm; [PL 2021, c. 388, §3 (NEW).]

E. A child in fact gains access to the loaded firearm as the result of a criminal trespass by any person on the premises where the firearm is stored or left; or [PL 2021, c. 388, §3 (NEW).]

F. A child in fact gains access to the loaded firearm as the result of a theft of the firearm by any person from the premises where the firearm is stored or left. [PL 2021, c. 388, §3 (NEW).] [PL 2021, c. 388, §3 (NEW).]

#### 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). PL 2021, c. 388, §§1-3 (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).

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