

2002-2003 Edition

**MAINE
CRIMINAL
STATUTES**

- I. Maine Criminal Code (effective 1/31/03)**
- II. Maine Juvenile Code (effective 7/25/02)**
- III. Maine Bail Code (effective 7/25/02)**
- IV. Selected Other Statutes (effective 7/25/02)**

As amended through the
120th Maine Legislature Second Regular Session
(Effective from July 25, 2002 on, unless
otherwise indicated, except the Maine Criminal Code,
which is effective from January 31, 2003 on)

**Compiled and Indexed
by
John N. Ferdico**

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CRIMINAL
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PREFACE

Maine Criminal Statutes is designed as a handy reference for lawyers, law enforcement officers, and other criminal justice personnel to the essential criminal and criminal-related statutes of Maine. Parts I, II, and III contain the entire Maine Criminal Code, the entire Maine Juvenile Code, and the entire Maine Bail Code. Part IV contains miscellaneous statutes from several other Titles, selected primarily on the basis of their effect on the law enforcement officer's powers and duties.

A summary of contents is included at the beginning and a comprehensive index at the end to assist the reader in finding particular statutory provisions. The statutes, as presented in this book, contain all the changes in the law enacted through the Second Regular Session of the 120th Maine Legislature. Except for the Maine Criminal Code, all the statutes in this book are effective from July 25, 2002 on, unless otherwise indicated. The Maine Criminal Code, because of changes enacted by PL 2001, c. 383 ("An Act to Implement Recommendations of the MCJUSTIS Board Pursuant to the Study Required by Resolve 1997, Chapter 105") and amendments thereto, is effective from January 31, 2003 on. A supplement to the 2001-2002 version of the Maine Criminal Code is available from Swan Island Press to cover new legislation affecting the code during the period from July 25, 2002 to January 31, 2003. Information on how to contact Swan Island Press is available inside the front and back covers of this book.

During the selection process for Part IV, portions of certain sections were omitted. These omissions are indicated in the book by ***. Also, many criminal and criminal-related statutes obviously had to be omitted in their entirety in order to keep the book to a reasonable size and make it affordable to all Maine criminal justice personnel. Although I had the assistance of several knowledgeable people involved in the criminal justice system in making the selections, I would appreciate further feedback on the contents of the book along with other comments and suggestions for the improvement of future editions.

Finally, I would like to express my appreciation to the people at Franklin Printing in Farmington for their friendly guidance and professional skill in the production of this book.

John N. Ferdico

July 2002

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I.
MAINE
CRIMINAL
CODE

I. MAINE CRIMINAL CODE

TITLE 17-A

PART 1

GENERAL PRINCIPLES

CHAPTER 1

PRELIMINARY

§ 1. Title; effective date; severability

1. Title 17-A shall be known and may be cited as the Maine Criminal Code. When it is alleged that an element occurred “on or about” any date prior to the effective date of the code, the prosecution shall be governed by the prior law. When it is alleged that all of the elements occurred “on or about” the effective date of the code or any date thereafter, the prosecution shall be governed by the code.

2. Except as provided in section 4-A, this code shall become effective May 1, 1976, and it shall apply only to crimes committed subsequent to its effective date. Prosecution for crimes repealed by this code, which are committed prior to the effective date shall be governed by the prior law which is continued in effect for that purpose as if this code were not in force; provided that in any such prosecution the court may, with the consent of the defendant, impose sentence under the provisions of the code. In such cases, the sentencing authority of the court is determined by the application to the prior law of section 4-A, subsection 3, which became effective for this purpose May 1, 1976. For purposes of this section, a crime was committed subsequent to the effective date if all of the elements of the crime occurred on or after that date; a crime was not committed subsequent to the effective date if any element thereof occurred prior to that date, or if the evidence may reasonably be interpreted to establish that any element may have occurred prior to that date.

3. If any provision or clause of this code or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the code which can be given effect without the invalid provision or application, and to this end the provisions of this code are declared to be severable.

§ 2. Definitions

As used in this code, unless a different meaning is plainly required, the following words and variants thereof have the following meanings.

1. “Act” or “action” means a voluntary bodily movement.
2. “Acted” includes, where appropriate, possessed or omitted to act.
3. “Actor” includes, where appropriate, a person who possesses something or who omits to act.

3-A. (Repealed)

17-A § 2

4. “Benefit” means any gain or advantage to the actor, and includes any gain or advantage to a person other than the actor which is desired or consented to by the actor.

5. “Bodily injury” means physical pain, physical illness or any impairment of physical condition.

5-A. “Corrections officer” has the same meaning as in Title 25, section 2801-A, subsection 2.

5-B. **Corrections supervisor.** “Corrections supervisor” means any person who:

A. Is an employee of the Department of Corrections;

B. Supervises corrections officers; and

C. Is trained, qualified and authorized by the Commissioner of Corrections to use deadly force.

6. “Criminal negligence” has the meaning set forth in section 35.

6-A. “Critical infrastructure” means critical public or private infrastructure resource systems involved in providing services necessary to ensure or protect the public health, safety and welfare, including, but not limited to, a public water system or a public water source; an emergency, governmental, medical, fire or law enforcement response system; a public utility system; a financial system; an educational system; or a food or clothing distribution system.

7. “Culpable” has the meaning set forth in section 35.

8. “Deadly force” means physical force which a person uses with the intent of causing, or which he knows to create a substantial risk of causing, death or serious bodily injury. Intentionally or recklessly discharging a firearm in the direction of another person or at a moving vehicle constitutes deadly force.

9. **Dangerous weapon.**

A. “Use of a dangerous weapon” means the use of a firearm or other weapon, device, instrument, material or substance, whether animate or inanimate, which, in the manner it is used or threatened to be used is capable of producing death or serious bodily injury.

B. “Armed with a dangerous weapon” means in actual possession, regardless of whether the possession is visible or concealed, of:

(1) A firearm;

(2) Any device designed as a weapon and capable of producing death or serious bodily injury; or

(3) Any other device, instrument, material or substance, whether animate or inanimate, which, in the manner it is intended to be used by the actor, is capable of producing or threatening death or serious bodily injury. For purposes of this definition, the intent may be conditional.

C. When used in any other context, “dangerous weapon” means a firearm or any device designed as a weapon and capable of producing death or serious bodily injury.

D. For purposes of this subsection, proof that a thing is presented in a covered or open manner as a dangerous weapon gives rise to a permissible inference under the Maine Rules of Evidence, Rule 303 that it, in fact, is a dangerous weapon.

10. “Dwelling place” means a structure which is adapted for overnight accommodation of persons, or sections of any structure similarly adapted. A dwelling place does not include garages or other structures, whether adjacent or attached to the dwelling place, which are used solely for the storage of property or structures formerly used as dwelling places which are uninhabitable. It is immaterial whether a person is actually present.

11. “Element of the crime” has the meaning set forth in section 32.

12. “Financial institution” means a bank, insurance company, credit union, safety deposit company, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

12-A. “Firearm” means any weapon, whether loaded or unloaded, which is designed to expel a projectile by the action of an explosive and includes any such weapon commonly referred to as a pistol, revolver, rifle, gun, machine gun or shotgun. Any weapon which can be made into a firearm by the insertion of a firing pin, or other similar thing, or by repair, is a firearm. Bebe Guns CO2 Guns not firearm

13. “Government” means the United States, any state or any county, municipality or other political unit within territory belonging to the State, the United States, or any department, agency or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government or formed pursuant to interstate compact or international treaty.

14. “He” means, where appropriate, “she,” or an organization.

15. “Intentionally” has the meaning set forth in section 35.

16. “Knowingly” has the meaning set forth in section 35.

17. “Law enforcement officer” means any person who by virtue of public employment is vested by law with a duty to maintain public order, to prosecute offenders, to make arrests for crimes whether that duty extends to all crimes or is limited to specific crimes, to perform probation functions or to perform intensive supervision functions.

18. “Nondeadly force” means any physical force which is not deadly force.

19. “Organization” means a corporation, partnership or unincorporated association.

20. “Person” means a human being or an organization.

21. “Public servant” means any official officer or employee of any branch of government and any person participating as juror, advisor, consultant or otherwise, in performing a governmental function.

17-A § 3

A person is considered a public servant upon his election, appointment or other designation as such, although he may not yet officially occupy that position.

21-A. “Public utility system” includes any pipeline, gas, electric, steam, water, oil, transportation, sanitation, communication or other system operated for public use regardless of ownership.

21-B. “Public water source” has the same meaning as in Title 22, section 2641.

21-C. “Public water system” has the same meaning as in Title 22, section 2601, subsection 8.

22. “Recklessly” has the meaning set forth in section 35.

23. “Serious bodily injury” means a bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or loss or substantial impairment of the function of any bodily member or organ, or extended convalescence necessary for recovery of physical health.

23-A. “Strict liability crime” has the meaning set forth in section 34.

24. “Structure” means a building or other place designed to provide protection for persons or property against weather or intrusion, but does not include vehicles and other conveyances whose primary purpose is transportation of persons or property unless such vehicle or conveyance, or a section thereof, is also a dwelling place.

25. “Terroristic intent” means the intent to do any of the following for the purpose of intimidating or coercing a civilian population or to affect the conduct of government:

- A. Cause serious bodily injury or death to multiple persons;
- B. Cause substantial damage to multiple structures; or
- C. Cause substantial damage to critical infrastructure.

§ 3. All crimes defined by statute; civil actions

- 1. No conduct constitutes a crime unless it is prohibited
 - A. By this code; or
 - B. By any statute or private act outside this code, including any rule, regulation or ordinance authorized by and lawfully adopted under a statute.
- 2. This code does not bar, suspend, or otherwise affect any right or liability for damages, penalty, forfeiture or other remedy authorized by law to be recovered or enforced in a civil action regardless of whether the conduct involved in such civil action constitutes an offense defined in this code.

§ 4. Classification of crimes in this Code

- 1. Except for murder, all crimes defined by this Code are classified for purposes of sentencing as Class A, Class B, Class C, Class D and Class E crimes.
- 2. (Repealed)

§ 4-A. Crimes and civil violations outside the code

1. Except as provided in section 1, subsection 2, this section becomes effective October 24, 1977.

2. (Repealed)

2-A. A statute outside this code may be expressly designated as a Class A, Class B, Class C, Class D or Class E crime, in which case sentencing for violation of such a statute is governed by the provisions of this code.

3. In statutes defining crimes which are outside this code and which are not expressly designated as Class A, Class B, Class C, Class D or Class E crimes, the class depends upon the imprisonment penalty that is provided as follows. If the maximum period authorized by the statute defining the crime:

A. Exceeds 10 years, the crime is a Class A crime;

B. Exceeds 5 years, but does not exceed 10 years, the crime is a Class B crime;

C. Exceeds 3 years, but does not exceed 5 years, the crime is a Class C crime.

D. Exceeds one year, but does not exceed 3 years, the crime is a Class D crime; and

E. Does not exceed one year, the crime is a Class E crime.

4. (Repealed)

§ 4-B. Civil violations

1. All civil violations are expressly declared not to be criminal offenses. They are enforceable by the Attorney General, his representative or any other appropriate public official in a civil action to recover what may be designated a fine, penalty or other sanction, or to secure the forfeiture that may be decreed by the law.

2. A law or ordinance may be expressly designated as a civil violation.

3. A law or ordinance which prohibits defined conduct, but does not provide an imprisonment penalty, is a civil violation, enforceable in accordance with subsection 1. A law or ordinance which is stated to be a criminal violation or which otherwise uses language indicating that it is a crime, but does not provide an imprisonment penalty is a civil violation, enforceable in accordance with subsection 1, unless the law or ordinance is an exception to the operation of this subsection.

4. Evidence obtained pursuant to an unlawful search and seizure shall not be admissible in a civil violation proceeding arising under Title 22, section 2383.

§ 5. (Repealed)

§ 6. Application to crimes outside the code

1. The provisions of Parts 1 and 3 and chapter 7 are applicable to crimes defined outside this code, unless the context of the statute defining the crime clearly requires otherwise.

2. (Repealed)