

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 826

H.P. 616

House of Representatives, March 14, 1995

**An Act to Amend the Sexual Abuse Laws by Including 18-year-olds
Who are Still in School in the Provisions for the Sexual Abuse of Minors.**

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

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative O'NEAL of Limestone.

Cosponsored by Representatives: ADAMS of Portland, AHEARNE of Madawaska, BUNKER of Kossuth Township, CLARK of Millinocket, DRISCOLL of Calais, KILKELLY of Wiscasset, LAYTON of Cherryfield, LEMAIRE of Lewiston, McALEVEY of Waterboro, MORRISON of Bangor, POIRIER of Saco, ROSEBUSH of East Millinocket, WHEELER of Bridgewater.

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

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Sec. 1. 17-A MRSA §254, sub-§1, ¶A, as amended by PL 1989, c. 401, Pt.A, §5, is further amended to read:

A. Having attained the age of 19 years, the person engages in a sexual act with another person, not the actor's spouse, who has attained the age of 14 years but has not attained the age of 16 years, provided that the actor is at least 5 years older than the other person; or

Sec. 2. 17-A MRSA §254, sub-§1, ¶C is enacted to read:

C. Having attained the age of 19 years, the person engages in a sexual act with another person, not the actor's spouse, who has not attained the age of 18 years, and is a student enrolled in a private or public elementary, secondary or special education school, facility or institution and the actor is a teacher, employee or other official in the school district, school union, educational unit, school, facility or institution in which the student is enrolled.

Sec. 3. 17-A MRSA §254, sub-§3, as amended by PL 1993, c. 451, §1, is further amended to read:

3. Sexual abuse of minors is a Class D crime, except that a violation of subsection 1, paragraph C is a Class E crime and except that sexual abuse of minors is a Class C crime when:

A. The actor is more than 10 years older than the other person;

B. The actor knows the other person is related within the 2nd degree of consanguinity; or

C. The actor has 2 or more prior Maine convictions for violations of this section. For purposes of this subsection, the dates of both of the prior convictions must precede the commission of the offense being enhanced by no more than 5 years, although both prior convictions may have occurred on the same day. The date of a conviction is deemed to be the date that sentence is imposed, even though an appeal was taken. The date of a commission of an offense is presumed to be that stated in the complaint, information or indictment, notwithstanding the use of the words "on or about" or the equivalent.

Sec. 4. 17-A MRSA §255, sub-§1, ¶H, as amended by PL 1993, c. 687, §5, is further amended to read:

H. The other person submits as a result of compulsion; or

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3 **Sec. 5. 17-A MRSA §255, sub-§1, ¶I**, as enacted by PL 1993, c.
4 687, §6, is amended to read:

6 I. The actor owns, operates or is an employee of an
7 organization, program or residence that is operated,
8 administered, licensed or funded by the Department of Mental
9 Health and Mental Retardation or the Department of Human
10 Services and the other person, not the actor's spouse,
11 receives services from the organization, program or
12 residence and the organization, program or residence
13 recognizes that person as a person with mental retardation.
14 It is an affirmative defense to prosecution under this
15 paragraph that the actor receives services for mental
16 retardation or is a person with mental retardation as
17 defined in Title 34-B, section 5001, subsection 3; or

18 **Sec. 6. 17-A MRSA §255, sub-§1, ¶J** is enacted to read:

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20 J. The other person, not the actor's spouse, has not in
21 fact attained the age of 18 years and is a student enrolled
22 in a private or public elementary, secondary or special
23 education school, facility or institution and the actor is a
24 teacher, employee or other official in the school district,
25 school union, educational unit, school, facility or
26 institution in which the student is enrolled.

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28 **Sec. 7. 17-A MRSA §255, sub-§2**, as repealed and replaced by PL
29 1993, c. 687, §7, is amended to read:

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31 2. Unlawful sexual contact is a Class D crime, except that
32 a violation of subsection 1, paragraph J is a Class E crime and
33 except that a violation of subsection 1, paragraph C, G or H is a
34 Class C crime, and a violation of this section when the actor has
35 2 or more prior Maine convictions for violations of this section
36 is a Class C crime. For purposes of this subsection, the dates
37 of both of the prior convictions must precede the commission of
38 the offense being enhanced by no more than 5 years, although both
39 prior convictions may have occurred on the same day. The date of
40 a conviction is deemed to be the date that sentence is imposed,
41 even though an appeal was taken. The date of a commission of an
42 offense is presumed to be that stated in the complaint,
43 information or indictment, notwithstanding the use of the words
44 "on or about" or the equivalent.
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STATEMENT OF FACT

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This bill provides that a teacher, school employee or school official is guilty of sexual abuse of a minor if that person engages in a sexual act with a minor who is enrolled in the institution that employs the teacher, school employee or school official. The bill also provides that a teacher, school employee or school official is guilty of unlawful sexual contact if that person subjects to any sexual contact a minor who is enrolled in the institution that employs the teacher, school employee or school official.