

MAINE STATE LEGISLATURE

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Date: 5/16/19

CRIMINAL JUSTICE AND PUBLIC SAFETY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 996, L.D. 1375, Bill, "An Act To Prevent Law Enforcement Officers from Using Their Authority To Extract Sexual Favors"

Amend the bill by striking out the title and substituting the following:

'An Act To Prohibit Certain Sexual Acts and Sexual Contact by Law Enforcement Officers in Performance of Official Duties and To Amend the Law on Obstructing Criminal Prosecution'

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 17-A MRSA §253, sub-§2, ¶L, as amended by PL 2017, c. 300, §1, is further amended to read:

L. The actor is employed to provide care to a dependent person, who is not the actor's spouse or domestic partner and who is unable to perform self-care because of advanced age or physical or mental disease, disorder or defect. For the purposes of this paragraph, "domestic partners" means 2 unmarried adults who are domiciled together under a long-term arrangement that evidences a commitment to remain responsible indefinitely for each other's welfare. Violation of this paragraph is a Class C crime; or

Sec. 2. 17-A MRSA §253, sub-§2, ¶M, as enacted by PL 2017, c. 300, §2, is further amended to read:

M. The other person has not expressly or impliedly acquiesced to the sexual act. Violation of this paragraph is a Class C crime; or

Sec. 3. 17-A MRSA §253, sub-§2, ¶N is enacted to read:

N. The actor is a law enforcement officer acting in performance of official duties and the other person, not the actor's spouse, is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime. For the purposes of this paragraph, "law

COMMITTEE AMENDMENT

2019

1 enforcement officer" has the same meaning as in Title 25, section 2801-A, subsection
2 5. Violation of this paragraph is a Class B crime.

3 **Sec. 4. 17-A MRSA §754, sub-§1**, as amended by PL 2001, c. 383, §89 and
4 affected by §156, is further amended to read:

5 1. A person is guilty of obstructing criminal prosecution if:

6 A. The person uses force, violence or intimidation, or the person promises, offers or
7 gives any pecuniary benefit or anything of benefit to another, with the intent to
8 induce the other:

9 (1) To refrain from initiating a criminal prosecution or juvenile proceeding; or

10 (2) To refrain from continuing with a criminal prosecution or juvenile
11 proceeding that the other person has initiated; or

12 B. The person solicits, accepts or agrees to accept any pecuniary benefit or anything
13 of benefit to another in consideration of doing any of the things specified in this
14 subsection.

15 **Sec. 5. 25 MRSA §2806-A, sub-§5, ¶¶J and K**, as enacted by PL 2013, c. 147,
16 §39, are amended to read:

17 J. Engaging in conduct that violates the standards established by the board and that
18 when viewed in light of the nature and purpose of the person's conduct and
19 circumstances known to the person, involves a gross deviation from the standard of
20 conduct that a reasonable and prudent certificate holder would observe in the same or
21 similar situation; ~~and~~

22 K. Engaging in a sexual act, as defined in Title 17-A, section 251, subsection 1,
23 paragraph C, or in sexual contact, as defined in Title 17-A, section 251, subsection 1,
24 paragraph D, with another person, not the person's spouse, if at the time of the sexual
25 act or sexual contact:

26 (1) The officer was engaged in an investigation or purported investigation
27 involving an allegation of abuse, as defined in former Title 19, section 762,
28 subsection 1 and in Title 19-A, section 4002, subsection 1;

29 (2) The other person was the alleged victim of that abuse;

30 (3) The parties did not have a preexisting and ongoing sexual relationship that
31 included engaging in any sexual act or sexual contact; and

32 (4) Less than 60 days had elapsed since the officer initially became involved in
33 the investigation or purported investigation; and

34 **Sec. 6. 25 MRSA §2806-A, sub-§5, ¶L** is enacted to read:

35 L. Engaging in sexual contact, as defined in Title 17-A, section 251, subsection 1,
36 paragraph D, with another person, not the person's spouse, if at the time of the sexual
37 contact the applicant or certificate holder is acting in performance of official duties
38 and the other person is under arrest, in custody or being interrogated or temporarily
39 detained, including during a traffic stop or questioning pursuant to an investigation of

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a crime, except that it is not grounds for discipline that a certificate holder properly performs a search of a person for legitimate law enforcement purposes consistent with training standards approved by the board.'

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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

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SUMMARY

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This amendment replaces the bill and provides a new title. The amendment provides that a law enforcement officer commits Class B gross sexual assault if the officer, in the performance of the officer's official duties, engages in a sexual act with another person, not the officer's spouse, while the other person is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime. The amendment subjects to disciplinary sanctions by the Board of Trustees of the Maine Criminal Justice Academy an applicant or certificate holder who engages in sexual contact, as defined in the Maine Revised Statutes, Title 17-A, section 251, subsection 1, paragraph D, with another person, not the person's spouse, if at the time of the sexual contact the applicant or certificate holder is acting in performance of official duties and the other person is under arrest, in custody or being interrogated or temporarily detained, including during a traffic stop or questioning pursuant to an investigation of a crime, except that it is not grounds for discipline that a certificate holder properly performs a search of a person for legitimate law enforcement purposes consistent with training standards approved by the board. The amendment also prohibits, as obstructing criminal prosecution, giving anything of benefit to another person with the intent to induce the other person to refrain from initiating or continuing with a criminal prosecution or juvenile proceeding or soliciting, accepting or agreeing to accept anything of benefit for those purposes.

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FISCAL NOTE REQUIRED

(See attached)



129th MAINE LEGISLATURE

LD 1375

LR 20(02)

An Act To Prevent Law Enforcement Officers from Using Their Authority To Extract Sexual Favors

Fiscal Note for Bill as Amended by Committee Amendment "A(H-285)

Committee: Criminal Justice and Public Safety

Fiscal Note Required: Yes

Fiscal Note

Current biennium cost increase - General Fund

Minor revenue increase - General Fund

Minor revenue increase - Other Special Revenue Funds

Correctional and Judicial Impact Statements

Establishes new Class B crimes; increases correctional and judicial costs.

Establishes new Class C crimes; increases correctional and judicial costs.

The additional workload associated with the minimal number of new cases filed in the court system does not require additional funding at this time.

The collection of additional fine revenue will increase General Fund and dedicated revenue by minor amounts.

The Department of Corrections has not indicated a need for additional funding at this time.

Fiscal Detail and Notes

This bill creates a new variant of gross sexual assault as a Class B crime for certain situations involving law enforcement officers. It also expands Class C crimes by adding to the conduct that is prohibited as obstructing criminal prosecution giving "anything of benefit" to another with the intent to induce the other person to refrain from initiating or continuing with a criminal prosecution.