

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-231)
110TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 873, L.D. 1042, Bill, "AN ACT to Define Force under the Sex Offense Provisions of the Criminal Code."

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

'Sec. 1. 17-A MRSA §251, sub-§1, ¶E is enacted to read:

E. "Compulsion" means physical force, a threat of physical force or a combination thereof which makes a person unable to physically repel the actor or which produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or upon another human being.

Sec. 2. 17-A MRSA §252, sub-§1, ¶B, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

B. With any person, not his spouse, and the person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E.

Sec. 3. 17-A MRSA §253, sub-§1, ¶A, as enacted by PL 1975, c. 499, §1, is repealed and the following enacted in its place:

A. The other person submits as a result of compulsion, as defined in section 251, subsection 1, paragraph E; or'

Statement of Fact

The purpose of this amendment is 2-fold. First, it seeks to eliminate the pleading problem present in 2 recent Law Court decisions, State v. Colson, Me., 405 A.2d 717, 1979, and State v. Perry, Me., 408 A.2d 1300, 1979. Second, and more importantly, it makes clear that a combination of physical force and threats will be sufficient to overbear the will of the victim, although either standing alone may not be sufficient.

Reported by the Committee on Judiciary.

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