

MAINE STATE LEGISLATURE

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L.D. 607

(Filing No. H-233)

STATE OF MAINE
HOUSE OF REPRESENTATIVES
112TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 427, L.D. 607,
Bill, "AN ACT to Amend the Statute of Limitations in
Cases Involving Incest."

Amend the bill by striking out the title and in-
serting in its place the following:

'AN ACT to Establish a Civil Statute of Limita-
tions in Cases Involving Sexual Acts Towards Minors.'

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

'Sec. 1. 14 MRSA §752-C is enacted to read:

§752-C. Sexual acts towards minors

Actions based upon sexual intercourse or a sexual
act, as defined in Title 17-A, chapter 11, with a
person under the age of majority shall be commenced
within 6 years after the cause of action accrues.

Sec. 2. 14 MRSA §853, as amended by PL 1977, c.
492, §2, is amended to read:

§853. Persons under disability may bring action when
disability removed

If a person entitled to bring any of the actions
under sections 752 to 754, including section 752-C,
and under sections 851, 852 and Title 24, section
2902 is a minor, mentally ill, imprisoned or without
the limits of the United States when the cause of ac-
tion accrues, the action may be brought within the
times limited herein after the disability is re-
moved.'

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STATEMENT OF FACT

2 The purpose of this amendment is to establish a
3 statute of limitations for any civil action based on
4 a sexual act or sexual intercourse with a minor.

5 Section 1 of the amendment enacts a new section
6 to the Maine Revised Statutes, Title 14, that specif-
7 ically provides that a civil action based on a sexual
8 act or sexual intercourse with a person under the age
9 of majority must be commenced within 6 years from the
10 time the cause of action accrues or it will be barred
11 by the statute of limitations. This new section clar-
12 ifies that the limitation period to be applied to
13 civil actions based on sexual acts or intercourse
14 with minors is 6 years and not the 2 years of the
15 Maine Revised Statutes, Title 14, section 753, con-
16 cerning civil actions for assault and battery.

17 The enactment of the Maine Revised Statutes, Ti-
18 tle 14, section 752-C, also provides the opportunity
19 for a plaintiff in a civil action based on a sexual
20 act or sexual intercourse with a minor to argue to a
21 court that the cause of action in the plaintiff's
22 case did not accrue until the plaintiff discovered,
23 or reasonably should have discovered, his or her in-
24 jury. This argument would seek to place civil actions
25 based on sexual acts or sexual intercourse with a mi-
26 nor in the category of judicially recognized excep-
27 tions to the general rule that a cause of action ac-
28 crues when a wrongful act occurs. It may well be ap-
29 propriate for certain types of civil actions based on
30 sexual acts or sexual intercourse with a minor (for
31 example, where the plaintiff was the young child of
32 the defendant when the wrong was done) to be governed
33 by the "date of discovery" exception to the general
34 rule concerning when a statute of limitations starts
35 to run. The enactment of the Maine Revised Statutes,
36 Title 14, section 752-C, provides a clear opportunity

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1 for plaintiffs in civil actions covered by that sec-
2 tion to argue that the wrong done to them is of the
3 type that necessitates a longer limitation period in
4 which to bring their causes of action than that pro-
5 vided by the general rule.

6 Section 2 of the amendment amends the Maine Re-
7 vised Statutes, Title 14, section 853, to make it
8 clear that the statute of limitations provided in
9 section 752-C is tolled while that plaintiff to whom
10 section 752-C applies is under one of the disabili-
11 ties listed in section 853. Thus, for example, a
12 plaintiff who is a minor when the type of wrong de-
13 scribed in section 752-C occurs to him or her need
14 not be concerned about the limitation period provided
15 in that section until he or she reaches the age of
16 majority. Only when a person reaches the age of ma-
17 jority does the statute of limitations covered by
18 section 853 start to run on a cause of action accrued
19 during the person's minority.

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Reported by the Committee on Judiciary
Reproduced and distributed under the direction of the
Clerk of the House

5/29/85

(Filing No. H-233)