

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1254

6
7 S.P. 451

In Senate, April 4, 1985

8 Referred to the Committee on Judiciary. Sent down for concurrence and
9 ordered printed.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Dutremble of York.

Cosponsored by Senator Usher of Cumberland.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Establish Statutory Definitions of
18 Entrapment under the Maine Criminal Code.
19

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

22 17-A MRSA §63 is enacted to read:

23 §63. Entrapment

24 1. Entrapment defined. A public law enforcement
25 official or a person acting in cooperation with such
26 an official perpetrates an entrapment if, for the
27 purpose of obtaining evidence of the commission of an
28 offense, he induces or encourages another person to
29 engage in conduct constituting the offense by either:

30 A. Making knowingly false representations de-
31 signed to induce the belief that the conduct is
32 not prohibited; or

1 B. Employing methods of persuasion or inducement
2 which create a substantial risk that the offense
3 will be committed by persons other than those who
4 are ready to commit it.

5 2. Court to try issue. The issue of entrapment
6 shall be tried by the court in the absence of the ju-
7 ry.

8 3. Circumstances when defense unavailable. The
9 defense afforded by this section is unavailable when
10 causing or threatening bodily injury is an element of
11 the offense charged and the prosecution is based on
12 conduct causing or threatening that type of injury to
13 a person other than the person perpetrating the en-
14 trapment.

15 STATEMENT OF FACT

16 This bill enacts a statutory definition of en-
17 trapment. Currently, Maine's entrapment law is the
18 result of Law Court decisions which adopt the subjec-
19 tive definition, which focuses solely on the
20 predisposition of the defendant to commit the crime.
21 This often produces the untenable situation in which
22 officials entice a person into committing a crime,
23 and the mere fact of the existence of a prior crimi-
24 nal record goes to prove that the person was
25 "predisposed" to commit the crime, and the entrapment
26 defense fails. This bill substitutes an objective
27 definition, which focuses solely on conduct of the
28 law enforcement officers involved.

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